

BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE REORGANIZATION

Y 4. IN 2/11: S. HRG. 104-335

Bureau of Indian Affairs and Indian... **ING**

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

S. 814

VIEWS OF ALASKA NATIVE REPRESENTATIVES ON THE REORGANIZA-
TION OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH
SERVICE

OCTOBER 6, 1995
ANCHORAGE, AK



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[ERRATA]

S. HRG. 104-335

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335/ERRATA

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UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

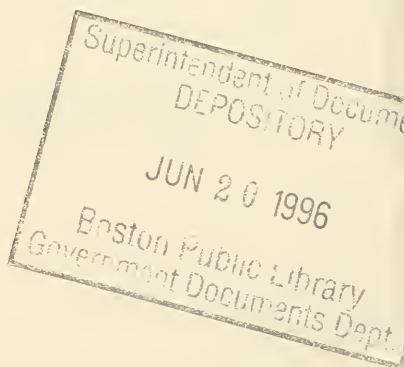
FIRST SESSION

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ERRATA

BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE REORGANIZATION

The above referenced hearing held before the Select Committee on Indian Affairs was inadvertently printed with the designation of S. HRG. 104-335.

The correct designation is S. HRG. 104-355.

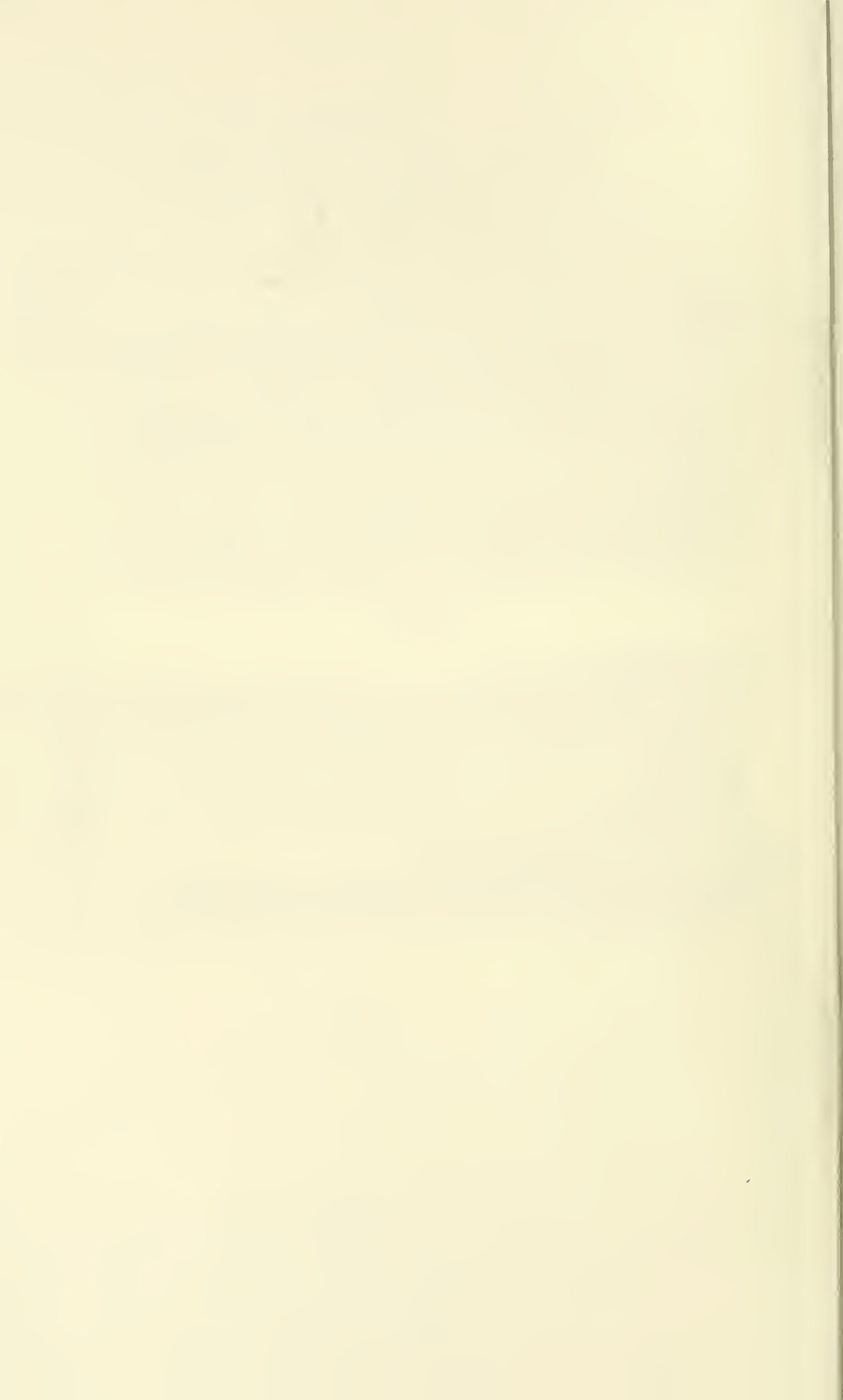
S. HRG. 104-335 has been assigned to another hearing.

CONTENTS

S. 814, text of	Page 3
Statements:	
Bullard, Loretta, president, Kawerak Corporation, Nome, AK	57
Mayo, Will, executive director, Tanana Chiefs Conference, Fairbanks, AK	45
McCain, Hon. John, U.S. Senator from Arizona, chairman, Committee on Indian Affairs	1
Naneng, Myron, chair, Human Resources Committee, Alaska Federation of Natives and president, Association of Council of Village Presidents, Anchorage, AK	43
Peltola, Gene, president, Yukon-Kuskokwim Health Corporation, Bethel, AK	61
Stevens, Hon. Ted, U.S. Senator from Alaska	40
Thomas, Edward, president, Central Council of Tlingit and Haida Indian Tribes of Alaska, Juneau, AK	41
Walker, Anne, executive director, Alaska Native Health Board, Anchorage, AK	53

APPENDIX

Prepared statements:	
Alex, Daniel, Anchorage, AK	73
Bullard, Loretta (with attachments)	76
Kasayulie, Willie, chairman and chief executive officer, Akiachak Native Community, Akiachak, AK	102
Llanos, Joe, executive director, Alaska Inter-Tribal Council	107
Mayo, Will	97
Naneng, Myron	71
Peltola, Gene	72
Thomas, Edward	69
Walker, Anne	88
Additional material submitted for the record:	
Letters:	
Merculief, Boris, chairman, Aleutian/Pribilof Islands Association, Inc.	111
Swan, Clare, Kenaitze Indian Tribe, IRA, tribal chairperson, Kenai, AK(with resolution)	113



VIEWS OF ALASKA NATIVE REPRESENTATIVES ON THE REORGANIZATION OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE

FRIDAY, OCTOBER 6, 1995

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Anchorage, AK

The committee met, pursuant to notice, at 2:00 p.m. in the Anchorage Museum of History and Art Auditorium, 121 West 7th Avenue, Anchorage, Alaska, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain and Stevens.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Good morning. The witnesses are here today to present testimony on BIA and IHS reorganization. This hearing is my first field hearing in Alaska as chairman of the Indian Affairs Committee.

I was very pleased to be able to visit the native village of Tyonek this morning to see firsthand the conditions there and to talk to the tribal leadership, the village elders, and the Native children and to hear directly from them their concerns and their priorities.

I am pleased to be joined this afternoon by my good friend Senator Stevens, who as everyone knows has been a strong voice in the Senate and in the country as to Native Alaskans and Native American issues and we're very pleased to have him with us today. As you know, this is the fourth hearing on BIA Reorganization that our committee has held.

Let me say at the outset that I remain convinced that we will not make significant improvements in the living conditions of Native Americans without a major restructuring of the Bureau of Indian Affairs [BIA]. I have introduced S. 814, the Bureau of Indian Affairs Reorganization Act of 1995, which establishes a process for tribal involvement and participation in the reorganization of the BIA. This bill reflects the spirit and intent of the recommendations of the Joint BIA/Tribal Reorganization Task Force.

S. 814 provides Indian tribes with the authority to reorganize and restructure the BIA at each level of the bureaucracy. It does not take a cookie-cutter approach to reorganization, but respects the unique circumstances and needs of each Indian tribe. The bill

provides Indian tribes and Native Alaskans with the ability to tailor the BIA to meet their unique circumstances and needs. The bill provides tribes with the authority to shape and redefine their government-to-government relationship with the Federal Government. The legislation builds upon the very foundations of the Federal Indian policies of Self Governance and Self Determination.

[Text of S. 814 follows:]

104TH CONGRESS
1ST SESSION

S. 814

To provide for the reorganization of the Bureau of Indian Affairs, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 15), 1995

Mr. MCCAIN (for himself, Mr. INOUE, and Mr. DOMENICI) introduced the
following bill; which was read twice and referred to the Committee on In-
dian Affairs

A BILL

To provide for the reorganization of the Bureau of Indian
Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS, AND DEFI-**
4 **NITIONS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Bureau of Indian Affairs Reorganization Act of 1995”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title, definitions, and table of contents.

TITLE I—REORGANIZATION COMPACTS

- Sec. 101. Reorganization of area offices.
- Sec. 102. Reorganization of agency offices.
- Sec. 103. Reorganization of central office.
- Sec. 104. Savings provisions.
- Sec. 105. Additional conforming amendments.
- Sec. 106. Authorization of appropriations.
- Sec. 107. Effective date.
- Sec. 108. Separability.
- Sec. 109. Suspension of certain administrative actions.
- Sec. 110. Statutory construction.

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT

- Sec. 201. Budget development.

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

- Sec. 301. BIA Manual.
- Sec. 302. Task force.
- Sec. 303. Authorization of appropriations.

1 (c) DEFINITIONS.—For purposes of this Act, the fol-
2 lowing definitions shall apply:

3 (1) AREA OFFICE.—The term “area office”
4 means 1 of the 12 area offices of the Bureau of In-
5 dian Affairs.

6 (2) AREA OFFICE PLAN.—The term “area office
7 plan” means a plan for the reorganization of an area
8 office negotiated by the Secretary and Indian tribes
9 pursuant to section 101.

10 (3) AGENCY OFFICE.—The term “agency of-
11 fice” means an agency office of the Bureau of In-
12 dian Affairs.

13 (4) AGENCY OFFICE PLAN.—The term “agency
14 office plan” means a plan for the reorganization of

1 an agency office negotiated by the Secretary and In-
2 dian tribes pursuant to section 102.

3 (5) BIA MANUAL.—The term “BIA Manual”
4 means the most recent edition of the Bureau of In-
5 dian Affairs Manual issued by the Department of
6 the Interior.

7 (6) BUREAU.—The term “Bureau” means the
8 Bureau of Indian Affairs.

9 (7) CENTRAL OFFICE.—The term “central of-
10 fice” means the central office of the Bureau, that is
11 housed in the offices of the Department in Washing-
12 ton, D.C. and in Albuquerque, New Mexico.

13 (8) CENTRAL OFFICE PLAN.—The term
14 “central office plan” means the plan for the reorga-
15 nization of the central office negotiated by the Sec-
16 retary and Indian tribes pursuant to section 103.

17 (9) DEPARTMENT.—The term “Department”
18 means the Department of the Interior.

19 (10) DIRECTOR.—The term “Director” means,
20 with respect to an area office, the Director of the
21 area office.

22 (11) FUNCTION.—The term “function” means
23 any duty, obligation, power, authority, responsibility,
24 right, privilege, activity, or program.

(12) INDIAN TRIBE.—The term “Indian tribe” has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(13) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(14) SUPERINTENDENT.—The term “Superintendent” means the Superintendent of an agency office.

(15) TRIBAL PRIORITY ALLOCATION ACCOUNT.—The term “tribal priority allocation account”, means an account so designated by the Bureau, with respect to which program priorities and funding levels are established by individual Indian tribes.

(16) TRIBAL RECURRING BASE FUNDING.—The term “tribal recurring base funding” means recurring base funding (as defined and determined by the Secretary) for the tribal priority allocation accounts of an Indian tribe allocated to a tribe by the Bureau.

TITLE I—REORGANIZATION COMPACTS

SEC. 101. REORGANIZATION OF AREA OFFICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of en-

1 actment of this Act, the Secretary shall enter into negotia-
2 tions with the Indian tribes served by each area office to
3 prepare a reorganization plan for the area office.

4 (b) CONTENTS OF AREA OFFICE PLANS.—

5 (1) IN GENERAL.—Each area office plan that is
6 prepared pursuant to this subsection shall provide
7 for the organization of the area office covered under
8 the plan. To the extent that the majority of Indian
9 tribes served by the area office do not exercise the
10 option to maintain current organizational structures,
11 functions, or funding priorities pursuant to para-
12 graph (2), the reorganization plan shall provide,
13 with respect to the area office covered under the
14 plan, for—

15 (A) the reorganization of the administra-
16 tive structure of the area office;

17 (B) the reallocation of personnel (including
18 determinations of office size and functions);

19 (C) the delegation of authority of the Sec-
20 retary to the Director;

21 (D) transfers of functions;

22 (E) the specification of functions—

23 (i) retained by the Bureau; or

24 (ii) transferred to Indian tribes served
25 by the area office;

(F) the issuance of waivers or other authorities by the Secretary so that functions and other responsibilities of the Secretary may be carried out by the area office or transferred to Indian tribes;

(G) the promulgation of revised regulations relating to the functions of the area office that are performed by the area office or transferred to Indian tribes;

(H) the reordering of funding priorities; and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the area office, of unexpended balances of appropriations and other Federal funds made available to the area office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) SHARE OF FUNDING.—An area office plan may include, for each Indian tribe served by the area office, a determination of the share of the Indian tribe of the funds used by the area office to carry out programs, services, functions and activities of the tribe (referred to in this subsection as the “tribal share”).

1 (3) OPTION OF MAINTENANCE OF CURRENT
2 STATUS.—At the option of a majority of the Indian
3 tribes served by an area office, a reorganization plan
4 may provide for the continuation of organizational
5 structures, functions, or funding priorities of the
6 area office that are substantially similar to those in
7 effect at the time of the development of the area of-
8 fice plan.

9 (4) APPROVAL OF AREA OFFICE PLAN BY IN-
10 DIAN TRIBES.—Upon completion of the negotiation
11 of an area office plan, the Secretary shall submit the
12 plan to the Indian tribes served by the area office
13 for approval. If a majority of the Indian tribes ap-
14 prove the area office plan by a tribal resolution pur-
15 suant to the applicable procedures established by the
16 Indian tribes, the Secretary shall enter into a reor-
17 ganization compact pursuant to subsection (e).

18 (5) SINGLE TRIBE AREA OFFICE.—In an area
19 office that serves only 1 Indian tribe, if the tribe
20 elects to develop a reorganization plan for the area
21 office, the Secretary shall enter into negotiations
22 with the tribe to prepare a reorganization plan for
23 the area office. Not later than 60 days after the date
24 on which a reorganization plan referred to in the
25 preceding sentence is approved by the Indian tribe,

1 the Secretary shall enter into a reorganization com-
2 pact with the tribe to carry out the area office plan.

3 (6) OPTION TO TAKE TRIBAL SHARE.—

4 (A) IN GENERAL.—If a majority of the In-
5 dian tribes served by an area office fail to ap-
6 prove an area office plan, an Indian tribe may
7 elect to receive directly the tribal share of the
8 Indian tribe.

9 (B) DETERMINATION OF TRIBAL SHARE.—

10 If an Indian tribe elects to receive a tribal share
11 under subparagraph (A), the Secretary shall
12 enter into negotiations with the Indian tribe to
13 determine the tribal share of the Indian tribe.

14 (C) AGREEMENT.—Upon the determina-
15 tion of a tribal share of an Indian tribe under
16 subparagraph (B), the Secretary shall enter
17 into an agreement with the Indian tribe for
18 transferring directly to the Indian tribe an
19 amount equal to the tribal share. The agree-
20 ment shall include—

21 (i) a determination of the amount of
22 residual Federal funds to be retained by
23 the Secretary for the area office; and

24 (ii) the responsibilities of—

25 (I) the area office; and

1 (II) the Indian tribe.

2 (c) AREA OFFICE REORGANIZATION COMPACT.—

3 (1) IN GENERAL.—Not later than 60 days after
4 the date on which a majority of the Indian tribes
5 served by the area office that is the subject of a re-
6 organization plan have approved the plan pursuant
7 to subsection (b)(3), the Secretary shall enter into
8 an area office reorganization compact with the In-
9 dian tribes to carry out the area office plan (referred
10 to in this subsection as the “area office reorganiza-
11 tion compact”). The Secretary may not implement
12 the area office plan until such time as the Indian
13 tribes have entered into an area office reorganization
14 compact with the Secretary pursuant to this para-
15 graph. If the Indian tribes do not enter into an area
16 office reorganization compact with the Secretary
17 pursuant to this paragraph, the organizational struc-
18 ture, functions, and funding priorities of the area of-
19 fice in effect at the time of the development of the
20 area office plan shall remain in effect.

21 (2) PROHIBITION AGAINST CERTAIN LIMITA-
22 TIONS.—With respect to an Indian tribe that is not
23 a party to an area office reorganization compact en-
24 tered into by the Secretary under this subsection,
25 nothing in this section may limit or reduce the level

of any service or funding that the Indian tribe is entitled to pursuant to applicable Federal law (including any contract that the Indian tribe is entitled to enter into pursuant to applicable Federal law).

SEC. 102. REORGANIZATION OF AGENCY OFFICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary, acting through the Superintendent (or a designee of the Superintendent) of each agency office, shall enter into negotiations with the Indian tribes served by each agency office to prepare an agency office plan for each agency office.

(b) CONTENTS OF AGENCY OFFICE PLANS.—

(1) IN GENERAL.—Each agency office plan that is prepared by the Secretary pursuant to this subsection shall provide for the organization of the agency office covered under the plan. To the extent that the majority of Indian tribes served by the agency office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (2), the agency office plan shall provide, with respect to the agency office covered under the agency office plan, for—

(A) the reorganization of the administrative structure of the agency office;

1 (B) the reallocation of personnel (including
2 determinations of office size and functions);

3 (C) the delegation of authority of the Sec-
4 retary to the Superintendent;

5 (D) transfers of functions;

6 (E) the specification of functions—

7 (i) retained by the Bureau; or

8 (ii) transferred to Indian tribes served
9 by the agency office;

10 (F) the issuance of waivers or other au-
11 thorities by the Secretary so that functions and
12 other responsibilities of the Secretary may be
13 carried out by the agency office or transferred
14 to Indian tribes;

15 (G) the promulgation of revised regulations
16 relating to the functions of the agency office
17 that are carried by the agency office or trans-
18 ferred to Indian tribes;

19 (H) the reordering of funding priorities;
20 and

21 (I) a formula for the transfer, to the tribal
22 recurring base funding for each Indian tribe
23 served by the agency office, of unexpended bal-
24 ances of appropriations and other Federal
25 funds made available to the agency office in

1 connection with any function transferred to In-
2 dian tribes pursuant to subparagraph (E)(ii).

3 (2) SHARE OF FUNDING.—An agency office
4 plan may include, for each Indian tribe served by the
5 agency office, a determination of the share of the In-
6 dian tribe of the funds used by the agency office to
7 carry out programs, services, functions and activities
8 of the tribe (referred to in this subsection as the
9 “tribal share”).

10 (3) OPTION OF MAINTENANCE OF CURRENT
11 STATUS.—At the option of a majority of the Indian
12 tribes served by an agency office, an agency office
13 plan may provide for the continuation of organiza-
14 tional structures, functions, or funding priorities of
15 the agency office that are substantially similar to
16 those in effect at the time of the development of the
17 agency office plan.

18 (4) APPROVAL OF AGENCY OFFICE PLAN BY IN-
19 DIAN TRIBES.—Upon completion of the negotiation
20 of an agency office plan, the Secretary shall submit
21 the agency office plan to the Indian tribes served by
22 the agency office for approval. If a majority of the
23 Indian tribes approve the agency office plan by a
24 tribal resolution pursuant to the applicable proce-
25 dures established by the Indian tribes, the Secretary

1 shall enter into a reorganization compact pursuant
2 to subsection (e).

3 (5) SINGLE TRIBE AGENCY OFFICE.—In an
4 agency office that serves only 1 Indian tribe, if the
5 tribe elects to develop a reorganization plan for the
6 agency office, the Secretary shall enter into negotia-
7 tions with the tribe to prepare a reorganization plan
8 for the agency office. Not later than 60 days after
9 the date on which a reorganization plan referred to
10 in the preceding sentence is approved by the Indian
11 tribe, the Secretary shall enter into a reorganization
12 compact with the tribe to carry out the agency office
13 plan.

14 (6) OPTION TO TAKE TRIBAL SHARE.—

15 (A) IN GENERAL.—If a majority of the In-
16 dian tribes served by an agency office fail to ap-
17 prove an agency office plan, an Indian tribe
18 may elect to receive directly the tribal share of
19 the Indian tribe.

20 (B) DETERMINATION OF TRIBAL SHARE.—

21 If an Indian tribe elects to receive a tribal share
22 under subparagraph (A), the Secretary shall
23 enter into negotiations with the Indian tribe to
24 determine the tribal share of the Indian tribe.

1 (C) AGREEMENT.—Upon the determina-
 2 tion of a tribal share of an Indian tribe under
 3 subparagraph (B), the Secretary shall enter
 4 into an agreement with the Indian tribe for
 5 transferring directly to the Indian tribe an
 6 amount equal to the tribal share. The agree-
 7 ment shall include—

8 (i) a determination of the amount of
 9 residual Federal funds to be retained by
 10 the Secretary for the agency office; and

11 (ii) the responsibilities of—

12 (I) the agency office; and

13 (II) the Indian tribe.

14 (c) AGENCY OFFICE REORGANIZATION COMPACTS.—

15 (1) IN GENERAL.—Not later than 60 days after
 16 the date on which a majority of the Indian tribes
 17 served by the agency office that is the subject of an
 18 agency office plan have approved the agency office
 19 plan pursuant to subsection (b)(3), the Secretary
 20 shall enter into a reorganization compact with the
 21 Indian tribes to carry out the agency office plan (re-
 22 ferred to in this subsection as the “agency office re-
 23 organization compact”). The Secretary may not im-
 24 plement the agency office plan until such time as the
 25 Indian tribes have entered into an agency office re-

1 organization compact with the Secretary pursuant to
2 this paragraph. If the Indian tribes do not enter into
3 an agency office reorganization compact with the
4 Secretary pursuant to this paragraph, the organiza-
5 tional structure, functions, and funding priorities of
6 the agency office in effect at the time of the develop-
7 ment of the agency office plan shall remain in effect.

8 (2) PROHIBITION AGAINST CERTAIN LIMITA-
9 TIONS.—With respect to an Indian tribe that is not
10 a party to an agency office reorganization compact
11 entered into under this subsection, nothing in this
12 section may limit or reduce the level of any service
13 or funding that the Indian tribe is entitled to pursu-
14 ant to applicable Federal law (including any contract
15 that the Indian tribe is entitled to enter into pursu-
16 ant to applicable Federal law).

17 (3) COORDINATION WITH AREA OFFICE
18 PLANS.—Each agency office reorganization compact
19 entered into by the Secretary under this subsection
20 shall specify that in the event that the Secretary de-
21 termines that the agency office reorganization com-
22 pact is inconsistent with an area office reorganiza-
23 tion compact entered into under section 101(c), the
24 Secretary, in consultation with the Indian tribes that
25 are parties to the compact, shall make such amend-

1 ments to the agency office reorganization compact
 2 entered into under this subsection as are necessary
 3 to ensure consistency with the applicable area office
 4 plan.

5 **SEC. 103. REORGANIZATION OF CENTRAL OFFICE.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
 7 sion of law, not later than 120 days after the date of en-
 8 actment of this Act, the Secretary shall enter into negotia-
 9 tions with Indian tribes to develop a central office plan.
 10 In developing the plan, the Secretary shall enter into nego-
 11 tiations on an area-by-area basis with a representative
 12 from each of the Indian tribes in each area, to determine
 13 the appropriate allocation of personnel and funding made
 14 available to the central office to serve the area and agency
 15 offices and Indian tribes in each area office.

16 (b) CONTENT OF CENTRAL OFFICE PLAN.—

17 (1) IN GENERAL.—The central office plan shall
 18 provide for determinations by the Secretary, on the
 19 basis of the negotiations described in subparagraph
 20 (a), concerning—

21 (A) which portion of the funds made avail-
 22 able to the Secretary for the central office
 23 shall—

24 (i) be used to support the area and
 25 agency offices in each area; and

1 (ii) be considered excess funds that
 2 may be allocated directly to Indian tribes
 3 in each area pursuant to a formula devel-
 4 oped pursuant to paragraph (2)(J); and

5 (B) the allocation of the personnel of the
 6 central office to provide support to the area and
 7 agency offices.

8 (2) REALLOCATION OF FUNDS AND PERSON-
 9 NEL.—In developing the central office plan, to the
 10 extent that the Secretary and the Indian tribes do
 11 not exercise the option to maintain current organiza-
 12 tional structures, functions, or funding priorities, the
 13 central office plan shall provide, to the extent nec-
 14 essary to accommodate the determinations made
 15 under paragraph (1), for—

16 (A) the reorganization of the administra-
 17 tive structure of the central office;

18 (B) the reallocation of personnel (including
 19 determinations of office size and functions);

20 (C) the delegation of authority of the Sec-
 21 retary carried out through the central office to
 22 the Directors, Superintendents, or Indian
 23 tribes;

24 (D) transfers of functions;

25 (E) the specification of functions—

1 (i) retained by the central office; or

2 (ii) transferred to area offices, agency
3 offices or Indian tribes;

4 (F) the issuance of waivers or other au-
5 thorities by the Secretary so that functions and
6 other responsibilities of the Secretary may be
7 carried out by the central office or transferred
8 to area offices, agency offices, or Indian tribes;

9 (G) the promulgation of revised regulations
10 relating to the functions of the central office
11 that are carried by the central office or trans-
12 ferred to area offices, agency offices, or Indian
13 tribes;

14 (H) the reordering of funding priorities;

15 (I) allocation formulas to provide for the
16 remaining services to be provided to the area
17 and agency offices and Indian tribes by the
18 central office; and

19 (J) with respect to the allocation of funds
20 to the area and agency offices and Indian tribes
21 in each area, a formula, negotiated with the
22 tribal representatives identified in subsection
23 (a), for the allocation to the Indian tribes of a
24 portion of excess funds described in paragraph
25 (1)(A)(ii).

1 (c) CENTRAL OFFICE REORGANIZATION COM-
2 PACTS.—

3 (1) IN GENERAL.—Not later than 60 days after
4 the Secretary develops a central office plan pursuant
5 to subsection (a), the Secretary shall, for each area
6 office, enter into a central office reorganization com-
7 pact with the Indian tribes in that area to imple-
8 ment the central office plan (referred to in this sub-
9 section as the “central office reorganization com-
10 pact”). The Secretary may not implement the com-
11 ponent of a central office plan relating to an area
12 until such time as a majority of the Indian tribes in
13 that area have entered into a central office reorga-
14 nization compact. If a majority of the Indian tribes
15 in an area do not enter into a central reorganization
16 compact with the Secretary pursuant to this para-
17 graph, the organizational structure, functions, and
18 funding priorities of the central office relating to the
19 area and agency offices and Indian tribes in that
20 area and in effect at the time of the development of
21 the central office plan shall remain in effect.

22 (2) COORDINATION WITH AREA AND AGENCY
23 OFFICE PLANS.—Each central office reorganization
24 compact entered into by the Secretary under this
25 subsection shall specify that in the event the Sec-

1 retary determines that a central office reorganiza-
2 tion compact is inconsistent with a related area of-
3 fice reorganization compact entered into under sec-
4 tion 101(c) or a related agency office reorganization
5 compact entered into under section 102(c), the Sec-
6 retary, in consultation with the Indian tribes that
7 are parties to the central office reorganization com-
8 pact, shall amend the compact to make such modi-
9 fications as are necessary to ensure consistency with
10 the applicable area or agency office plan.

11 **SEC. 104. SAVINGS PROVISIONS.**

12 (a) IN GENERAL.—All orders, determinations, rules,
13 regulations, permits, agreements, grants, contracts, cer-
14 tificates, licenses, registrations, privileges, and other ad-
15 ministrative actions—

16 (1) that have been issued, made, granted, or al-
17 lowed to become effective by the President, any Fed-
18 eral agency or official thereof, or by a court of com-
19 petent jurisdiction, in the performance of any func-
20 tion that is transferred to Indian tribes pursuant to
21 a reorganization compact that the Secretary enters
22 into pursuant to section 101, 102, or 103; and

23 (2) that are in effect on the effective date of the
24 reorganization compact, or were final before the ef-

1 fective date of the reorganization compact and are to
2 become effective on or after such date;
3 shall continue in effect according to their terms until
4 modified, terminated, superseded, set aside, or revoked in
5 accordance with law by the President, the Secretary, or
6 other authorized official, a court of competent jurisdiction,
7 or by operation of law.

8 (b) PROCEEDINGS NOT AFFECTED.—

9 (1) IN GENERAL.—The provisions of a reorga-
10 nization compact that the Secretary enters into pur-
11 suant to section 101, 102, or 103 shall not affect
12 any proceedings, including notices of proposed rule-
13 making, or any application for any license, permit,
14 certificate, or financial assistance pending before the
15 Bureau at the time the reorganization compact takes
16 effect, with respect to the functions transferred by
17 the reorganization compact.

18 (2) CONTINUATION OF PROCEEDINGS.—The
19 proceedings and applications referred to in para-
20 graph (1) shall be continued. Orders shall be issued
21 in such proceedings, appeals shall be taken from
22 such orders, and payments shall be made pursuant
23 to such orders, as if the compact had not been en-
24 tered into, and orders issued in any such proceed-
25 ings shall continue in effect until modified, termi-

1 nated, superseded, or revoked by a duly authorized
2 official, by a court of competent jurisdiction, or by
3 operation of law.

4 (3) STATUTORY CONSTRUCTION.—Nothing in
5 this subsection shall be deemed to prohibit the dis-
6 continuance or modification of any such proceeding
7 under the same terms and conditions and to the
8 same extent that such proceeding could have been
9 discontinued or modified if this title had not been
10 enacted.

11 (c) NONABATEMENT OF ACTIONS.—No suit, action,
12 or other proceeding commenced by or against the Bureau
13 or by or against any individual in the official capacity of
14 such individual as an officer of the Bureau shall abate by
15 reason of the enactment of this title.

16 **SEC. 105. ADDITIONAL CONFORMING AMENDMENTS.**

17 (a) RECOMMENDED LEGISLATION.—After consulta-
18 tion with Indian tribes, the appropriate committees of the
19 Congress and the Director of the Office of Management
20 and Budget, the Secretary shall prepare and submit to the
21 Congress recommended legislation containing technical
22 and conforming amendments to reflect the changes made
23 pursuant to this title.

24 (b) SUBMISSION TO THE CONGRESS.—Not later than
25 120 days after the effective date of this title, the Secretary

1 shall submit to the Congress the recommended legislation
2 referred to in subsection (a).

3 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this title.

6 **SEC. 107. EFFECTIVE DATE.**

7 This title shall take effect on the date of enactment
8 of this Act.

9 **SEC. 108. SEPARABILITY.**

10 If a provision of this title or its application to any
11 person or circumstance is held invalid, neither the remain-
12 der of this title nor the application of the provision to
13 other persons or circumstances shall be affected.

14 **SEC. 109. SUSPENSION OF CERTAIN ADMINISTRATIVE**
15 **ACTIONS.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, during the 2-year period beginning on the date
18 of enactment of this Act, the Secretary shall suspend the
19 implementation of all administrative activities that affect
20 the Bureau of Indian Affairs associated with reinventing
21 government, national performance review, or other
22 downsizing initiatives.

23 (b) CONSIDERATION OF COMPACTS.—During the pe-
24 riod specified in subsection (a), the reorganization com-
25 pacts entered into under this title shall be deemed to sat-

1 isfy the goals of the initiatives referred to in subsection
2 (a).

3 **SEC. 110. STATUTORY CONSTRUCTION.**

4 Nothing in this title may be construed to alter or di-
5 minish the Federal trust responsibility to Indian tribes,
6 individual Indians, or Indians with trust allotments.

7 **TITLE II—AMENDMENT TO THE**
8 **INDIAN SELF-DETERMINA-**
9 **TION ACT**

10 **SEC. 201. BUDGET DEVELOPMENT.**

11 The Indian Self-Determination Act (25 U.S.C. 450f
12 et seq.), as amended by the Tribal Self-Governance Act
13 of 1994, is amended by adding at the end the following
14 new title:

15 **“TITLE V—BUDGET**
16 **DEVELOPMENT**

17 **“SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DE-**
18 **VELOPMENT OF BUDGET REQUESTS.**

19 “(a) BUDGET REQUESTS FOR THE BUREAU OF IN-
20 DIAN AFFAIRS.—Notwithstanding any other provision of
21 law, not later than 120 days after the date of enactment
22 of this title, the Secretary of the Interior shall establish
23 a program—

24 “(1) to provide information to Indian tribes
25 concerning the development of budget requests for

1 the Bureau of Indian Affairs that are submitted to
2 the President by the Secretary of the Interior for in-
3 elusion in the annual budget of the President sub-
4 mitted to the Congress pursuant to section 1108 of
5 title 31, United States Code; and

6 “(2) to ensure, to the maximum extent prae-
7 tieable, the participation by each Indian tribe in the
8 development of the budget requests referred to in
9 paragraph (1).

10 “(b) BUDGET REQUESTS FOR THE INDIAN HEALTH
11 SERVICE.—Notwithstanding any other provision of law,
12 not later than 120 days after the date of enactment of
13 this title, the Secretary of Health and Human Services
14 shall establish a program—

15 “(1) to provide information to Indian tribes
16 concerning the development of budget requests by
17 the Secretary of Health and Human Services for the
18 Indian Health Service that are submitted to the
19 President by the Secretary for inclusion in the an-
20 nual budget referred to in subsection (a)(1); and

21 “(2) to ensure, to the maximum extent prae-
22 tieable, the participation by each Indian tribe in the
23 development of the budget requests referred to in
24 paragraph (1).

25 “(c) REQUIREMENTS FOR PROGRAMS.—

1 “(1) IN GENERAL.—Each program established
2 under this section shall, to the maximum extent
3 practicable—

4 “(A) provide for the estimation of—

5 “(i) the funds authorized to be appro-
6 priated on an annual basis for the benefit
7 of Indian tribes; and

8 “(ii) for each Indian tribe, the portion
9 of the funds described in clause (i) that
10 will be provided for the benefit of the In-
11 dian tribe;

12 “(B) provide, for each Indian tribe—

13 “(i) the opportunity to establish prior-
14 ities for using the estimated funds de-
15 scribed in subparagraph (A)(ii); and

16 “(ii) flexibility in the design of tribal
17 and Federal programs that receive Federal
18 funds to best meet the needs of the com-
19 munity served by the Indian tribe; and

20 “(C) provide for the collection and dissemi-
21 nation of information that is necessary for ef-
22 fective planning, evaluation, and reporting by
23 the Secretary of the Interior or the Secretary of
24 Health and Human Services and Indian tribes
25 concerning the comparative social and public

1 health conditions of Indian communities (as de-
2 fined and determined by the Secretary of the
3 Interior and the Secretary of Health and
4 Human Services) at local, regional, and na-
5 tional levels.

6 “(2) DUTIES OF THE SECRETARIES.—In carry-
7 ing out the programs established under this section,
8 the Secretary of the Interior and the Secretary of
9 Health and Human Services shall—

10 “(A) use any information provided by In-
11 dian tribes concerning the priorities referred to
12 in paragraph (1)(B);

13 “(B) support the creation of stable recur-
14 ring base funding (as defined and determined
15 by each such Secretary) for each Indian tribe;

16 “(C) seek to maintain stability in the plan-
17 ning and allocation of the amounts provided for
18 in the budget of the Bureau of Indian Affairs
19 and the Indian Health Service for Indian tribes;
20 and

21 “(D) assess the Federal programs or as-
22 sistance provided to each Indian tribe to deter-
23 mine—

1 “(i) the relative need for providing
2 Federal funds to carry out each such pro-
3 gram; and

4 “(ii) the amount of recurring base
5 funding available to each Indian tribe to
6 carry out each such program.

7 “(3) CONTRACTS, GRANTS, AND ANNUAL FUND-
8 ING AGREEMENTS.—To provide, to the maximum ex-
9 tent practicable, for the full participation by the gov-
10 erning bodies of Indian tribes on an effective govern-
11 ment-to-government basis in carrying out the collec-
12 tion and sharing of information under this section,
13 the Secretary of the Interior or the Secretary of
14 Health and Human Services may—

15 “(A) enter into a self-determination con-
16 tract with an Indian tribe or make a grant to
17 an Indian tribe pursuant to section 102 or 103;

18 “(B) with respect to the Secretary of
19 Health and Human Services, enter into a fund-
20 ing agreement with a participating Indian tribe
21 pursuant to title III; and

22 “(C) with respect to the Secretary of the
23 Interior, enter into a funding agreement with a
24 participating Indian tribe pursuant to title IV.

1 **"SEC. 502. ASSESSMENT METHODOLOGY.**

2 “(a) IN GENERAL.—Not later than 180 days after
3 the date of enactment of this title, the Secretary shall,
4 in cooperation with Indian tribes, and in accordance with
5 the negotiated rulemaking procedures under subchapter
6 III of chapter 5 of title 5, United States Code, promulgate
7 standardized assessment methodologies to be used in car-
8 rying out any budget determination for the Bureau of In-
9 dian Affairs concerning the levels of funding that are nec-
10 essary to fund each program area (as defined and deter-
11 mined by the Secretary) of the Bureau.

12 “(b) PARTICIPATION BY INDIAN TRIBES.—In carry-
13 ing out subsection (a), the Secretary shall take such action
14 as may be necessary to ensure, to the maximum extent
15 practicable, the direct and active participation of Indian
16 tribes at the local, regional, and national levels in the ne-
17 gotiated rulemaking process specified in subchapter III of
18 chapter 5 of title 5, United States Code.

19 “(c) COMMITTEE.—

20 “(1) COMPOSITION.—The negotiated rule-
21 making committee established pursuant to section
22 565 of title 5, United States Code, to carry out sub-
23 section (a) shall only be comprised of—

24 “(A) individuals who represent the Federal
25 Government; and

1 “(B) individuals who represent Indian
2 tribes.

3 “(2) REPRESENTATION BY INDIAN TRIBES.—A
4 majority of the members of the committee referred
5 to in paragraph (1) shall be individuals who rep-
6 resent Indian tribes.

7 “(d) ADAPTATION OF PROCEDURES.—The Secretary
8 shall adapt the negotiated rulemaking procedures carried
9 out under this section in the same manner as the Sec-
10 retary adapts, in accordance with section 407(c), the pro-
11 cedures carried out pursuant to section 407.

12 **“SEC. 503. REPORTS TO THE CONGRESS.**

13 “(a) REPORT ON BUDGET NEEDS.—Not later than
14 the earliest date after the date of promulgation of the reg-
15 ulations under section 502 on which the Secretary of the
16 Interior submits a budget request to the President for in-
17 clusion in the annual budget of the President submitted
18 to the Congress pursuant to section 1108 of title 31, Unit-
19 ed States Code, and annually thereafter, the Secretary
20 shall prepare and submit to the President a report that—

21 “(1) describes the standardized methodologies
22 that are the subject of the regulations promulgated
23 pursuant to section 502; and

24 “(2) includes—

1 “(A) for each program area of the Bureau
2 of Indian Affairs, an assessment of the level of
3 funding that is necessary to fund the program
4 area; and

5 “(B) for each Indian tribe served by a pro-
6 gram area referred to in paragraph (2)—

7 “(i) an assessment of the level of
8 funding that is necessary for each Indian
9 tribe served by the program area;

10 “(ii) the total amount of funding nec-
11 essary to cover all program areas with re-
12 spect to which the tribe receives services
13 (as determined by taking the aggregate of
14 the applicable amounts determined under
15 paragraph (3)); and

16 “(iii) a breakdown, for each program
17 area with respect to which the Indian tribe
18 receives service, of the amount determined
19 under clause (ii).

20 **“SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

21 “There are authorized to be appropriated such sums
22 as may be necessary to carry out this title.”.

1 **TITLE III—REFORM OF THE REG-**
2 **ULATIONS OF THE BUREAU**
3 **OF INDIAN AFFAIRS**

4 **SEC. 301. BIA MANUAL.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of enactment of this Act, the Secretary shall—

7 (1) conduct a review of all provisions of the
8 BIA Manual;

9 (2) promulgate as proposed regulations those
10 provisions of the BIA Manual that the Secretary
11 deems necessary for the efficient implementation of
12 the Federal functions retained by the Bureau under
13 the reorganization compacts authorized by this Act;
14 and

15 (3) revoke all provisions of the BIA Manual
16 that are not promulgated as proposed regulations
17 under paragraph (2).

18 (b) CONSULTATION WITH INDIAN TRIBES.—In car-
19 rying out subsection (a), the Secretary shall, to the maxi-
20 mum extent practicable, consult with Indian tribes in such
21 manner as to provide for the full participation of Indian
22 tribes.

23 **SEC. 302. TASK FORCE.**

24 (a) ESTABLISHMENT OF TASK FORCE.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of enactment of this Act, the Secretary
3 shall establish a task force on regulatory reform (re-
4 ferred to in this section as the “task force”).

5 (2) DUTIES.—The task force shall—

6 (A) review the regulations under title 25,
7 Code of Federal Regulations; and

8 (B) make recommendations concerning the
9 revision of the regulations.

10 (3) MEMBERSHIP.—The task force shall be
11 composed of 16 members, including 12 members
12 who are representatives of Indian tribes from each
13 of the 12 areas served by area offices.

14 (4) INITIAL MEETING.—Not later than 60 days
15 after the date on which all members of the task
16 force have been appointed, the task force shall hold
17 its first meeting.

18 (5) MEETINGS.—The task force shall meet at
19 the call of the Chairperson.

20 (6) QUORUM.—A majority of the members of
21 the task force shall constitute a quorum, but a lesser
22 number of members may hold hearings.

23 (7) CHAIRPERSON.—The task force shall select
24 a Chairperson from among its members.

25 (b) REPORTS.—

1 (1) REPORTS TO SECRETARY.—The task force
2 shall submit to the Secretary such reports as the
3 Secretary determines to be appropriate.

4 (2) REPORTS TO THE CONGRESS AND TO IN-
5 DIAN TRIBES.—In addition to submitting the reports
6 described in paragraph (1), not later than 120 days
7 after its initial meeting, the task force shall prepare,
8 and submit to the Congress and to the governing
9 body of each Indian tribe, a report that includes—

10 (A) the findings of the task force concern-
11 ing the review conducted pursuant to subsection
12 (a)(2)(A); and

13 (B) the recommendations described in sub-
14 section (a)(2)(B).

15 (c) POWERS OF THE TASK FORCE.—

16 (1) HEARINGS.—The task force may hold such
17 hearings, sit and act at such times and places, take
18 such testimony, and receive such evidence as the
19 task force considers advisable to carry out the duties
20 of the task force specified in subsection (a)(2).

21 (2) INFORMATION FROM FEDERAL AGENCIES.—
22 The task force may secure directly from any Federal
23 department or agency such information as the task
24 force considers necessary to carry out the duties of
25 the task force specified in subsection (a)(2).

1 (3) POSTAL SERVICES.—The task force may
2 use the United States mails in the same manner and
3 under the same conditions as other departments and
4 agencies of the Federal Government.

5 (4) GIFTS.—The task force may accept, use,
6 and dispose of gifts or donations of services or prop-
7 erty.

8 (d) TASK FORCE PERSONNEL MATTERS.—

9 (1) COMPENSATION OF MEMBERS.—Each mem-
10 ber of the task force who is not an officer or em-
11 ployee of the Federal Government shall be com-
12 pensated at a rate equal to the daily equivalent of
13 the annual rate of basic pay prescribed for level IV
14 of the Executive Schedule under section 5315 of title
15 5, United States Code, for each day (including travel
16 time) during which such member is engaged in the
17 performance of the duties of the task force. All
18 members of the task force who are officers or em-
19 ployees of the United States shall serve without com-
20 pensation in addition to that received for their serv-
21 ices as officers or employees of the United States.

22 (2) TRAVEL EXPENSES.—The members of the
23 task force shall be allowed travel expenses, including
24 per diem in lieu of subsistence, at rates authorized
25 for employees of agencies under subchapter I of

1 chapter 57 of title 5, United States Code, while
2 away from their homes or regular places of business
3 in the performance of services for the task force.

4 (3) STAFF.—

5 (A) IN GENERAL.—The Chairperson of the
6 task force may, without regard to the civil serv-
7 ice laws, appoint and terminate such personnel
8 as may be necessary to enable the task force to
9 perform its duties.

10 (B) PROCUREMENT OF TEMPORARY AND
11 INTERMITTENT SERVICES.—The Chairperson of
12 the task force may procure temporary and
13 intermittent service under section 3109(b) of
14 title 5, United States Code, at rates for individ-
15 uals that do not exceed the daily equivalent of
16 the annual rate of basic pay prescribed for level
17 V of the Executive Schedule under section 5316
18 of such title.

19 (c) TERMINATION OF TASK FORCE.—The task force
20 shall terminate 30 days after the date on which the task
21 force submits its reports to the Congress and to Indian
22 tribes under subsection (b)(2).

23 (f) EXEMPTION FROM FEDERAL ADVISORY COMMIT-
24 TEE ACT.—All of the activities of the task force conducted

1 under this title shall be exempt from the Federal Advisory
2 Committee Act (5 U.S.C. App.).

3 (g) PROHIBITION.—Beginning on the date of enact-
4 ment of this Act, the Secretary may not—

5 (1) promulgate any unpublished regulation or
6 agency guidance that affects Indian tribes; or

7 (2) impose any nonregulatory requirement that
8 affects Indian tribes.

9 **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums
11 as may be necessary to carry out this title.



The CHAIRMAN. Under this bill, Indian tribes, not experts in some office suite in Washington, DC, will be the architects of a new BIA. Indian tribes will develop the plans necessary for major reform of the structures and functions of the BIA. The time when it was appropriate for a Federal bureaucrat in Washington, DC or in Juneau, Alaska to make decisions for Native governments is long past. It is time to bring an end to the paternalism that has poisoned the relationship between tribes and their trustees.

It's time to break down the barriers to true Self Governance and Self Determination by providing Native Alaskans and Indian tribes with the authority to design both the structure and function of its trustee, the BIA. I am very interested to hear from the witnesses about their views on the proposals to reorganize the Indian Health Service.

I understand that the IHS has established the Indian Health Design Team to development recommendations for the reorganization of the IHS. On July 14, the Indian Health Design Team released its draft recommendations. Under their proposal, the Indian Health Service would be restructured at the area and headquarters levels, to change the focus of these offices from controlling the activities of tribal health programs to supporting tribal health programs.

In addition, the team recommends that IHS area and headquarters resources and expertise be consolidated to support local health programs needs.

Finally, the report requires any savings realized by reorganization to be reinvested at the tribal level.

Let me conclude by saying that I remain committed to working closely with Indian tribes and the Secretaries of the Interior and IHS, to realize the vision of those tribal leaders who participated in the work of the Tribal Reorganization Task Force and the IHS Design Team. I will insist on nothing less than real and lasting change at the BIA and IHS.

I look forward to hearing from our distinguished panelists on the need for fundamental reorganization. Please be assured that your entire statements will be made a part of the record, and before we hear from our first panel of witnesses, I would like to recognize my old and dear friend, Senator Stevens.

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Senator STEVENS. Well, thank you very much, John McCain. I'm delighted you've come to Alaska to hold this hearing. As you know, Senator Murkowski is out of the country on a mission and I think that I have to apologize for the fact that he's not here. He is on official business, however.

I'm of the opinion that I'm going to hear today from people who really have strong and firm views on the subject of your hearing, the reorganization of the BIA. I don't have any prepared statement, obviously. I'm really delighted to be able to take the time to listen to these views, because I think it's going to be a very substantial problem for us to find a way to make this reorganization fit to some of the ideas that you're going to hear requested here today. So I think we ought to talk something about the time.

I'm sure you know that as John said, he's been out to Tyonek, he's had meetings with the veterans since noon. We're having this hearing now and we've got some meetings after this, so the time-frame here is about the same as a hearing we would hold in Washington. Normally it would be from about 10 o'clock to 12 o'clock or slightly after it. I'm hopeful we can finish these two panels and be able to continue on with McCain's schedule for the day. I do thank you for coming.

The CHAIRMAN. Thank you very much, sir.

We would like to ask our first panel to forward: Edward Thomas, who is the president of the Central Council of Tlingit and Haida Indian Tribes of Alaska, Juneau, AK; Myron Naneng, who is the chairperson of the Human Resources Committee, Alaska Federation of Natives and President, Association of Council of Village Presidents of Anchorage, Alaska; and Will Mayo, who is executive director of the Tanana Chiefs Conference, Fairbanks, AK.

Mr. Naneng, did I pronounce your name correctly?

Mr. NANENG. Yes.

The CHAIRMAN. Thank you. Thank you.

Please Mr. Thomas, will you proceed with your statement, and welcome to all three witnesses.

STATEMENT OF EDWARD THOMAS, PRESIDENT, CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA, JUNEAU, AK

Mr. THOMAS. Thank you Senator and welcome to Alaska. My name is Edward Thomas. I am the president of the Central Council of the Tlingit and Haida Indian Tribes of Alaska. We are certainly honored that you and Senator Stevens can take the time to come up here to Alaska. We recognize you have a very busy schedule in Washington, DC during a very critical time so we really appreciate it. And further, I would like to pause to also thank both of you for your hard work on behalf of the American Indians Alaska Natives budget cut issues. I think you did an excellent job and we appreciate what you've been able to restore back to us. Thank you much.

Senator STEVENS. Thank you very much.

Mr. THOMAS. Also, I just want to make one more comment about Senator Stevens' appointment to the position on the Intergovernmental Affairs Committee. I think, in the future, I hope that some of what we are talking about here today could be looked at in the light of Inter Governmental reorganization.

Senator STEVENS. We are doing that and we will talk about that later. We are doing that.

Mr. THOMAS. In that regard, I think it's never too late to start thinking about structure as such. I would like to suggest that we involve many of the tribal governments in the process of brainstorming as to what kind of or where the BIA should really fit. It became very apparent during the budget cuts that the BIA didn't quite fit the Department of the Interior to compete or to put us against the Natural Resources Management issue, really didn't work very well and we struggled very hard with trying to make sense and debate things from two different points of view. So I think it's important for us to keep those things in mind as we move forward.

I want to begin my comments on the BIA reorganization by stating that I have been involved with the BIA reorganization since its inception of this past administration. Not this administration currently, but the one before, and am very interested because I think that your statements are very true. We in Indian country are less indigent as well, get the blame for the incompetence of the bureaucracy and, as a matter of fact, if a majority of the dollars came to us, I'm sure we would do an admirable job of trying to deal with the problems of our people.

So therefore, I think your S. 814 is very necessary. We've heard comments from the administration saying well, it's not very necessary because certain things can happen and therefore it will reorganize anyway. I think that kind of reorganization is what I opposed vehemently opposed is reorganization because of pressure that is not relative to getting the job done, and I think your bill provides a structure that's necessary as well as the legal foundation by which we can pull forward and reorganize the BIA in a meaningful manner.

Another point that is very true is, that you made, is that the Bureau of Human Affairs in its current reorganization, has resulted in less cuts, is totally ignoring in many cases. The recommendation of the joint Department of the Interior, BIA Tribal Reorganization Task Force. And I think the principles upon which the recommendations were founded need to be foremost in front of all our organizations, that the resources need to be pushed down to the tribe and agency level so that the services may get out to the people and they can be streamlined to the point whereby they are a support agency and administrative and not necessarily a regulatory body as they have been over the past number of years. It's my understanding that, I may have the wrong tribe, but I think it's Turtle Mountain Band of Chippewa, filed suit and it's my understanding that it was successful in stopping the BIA from arbitrarily cutting provisions without complications to the Tribe.

I think that's an important point. Tribes fully realize that there must be reorganization when budgets get short, but we also need to communicate with one another so that the cuts are cutting wastes and not cutting essential programs and that we end up turning back on those things that tribes can do themselves and the oversight and all those things and that we hang on to those kinds of issues that will support deficit tribes. I think it is very important for us to come to that decision, jointly with BIA, developing partnerships in each of our areas, as is suggested that we need to do. Because one group says somebody must do things one way and somebody else is the recipient of it, it hardly ever works.

So I think if we could work together, the partnership will be much more effective in what we're trying to accomplish. I think I want to conclude my remarks by, my verbal remarks, by giving you an example of what I am aware of here in Alaska. We're seeing that virtually every program the BIA area office is being cut, while one program remains intact and that's the BIA Tribal Enrollment Office. Now, you and I and Elvis know that the enrollment of tribes is a very essential and critical part of the Tribes rights.

However, in 1988 the BIA and IHS signed the agreement whereby the Bureau would certify the enrollment process of all the tribes

in Alaska and the IHS would service only those people who were from those tribes that had certified enrollment processing. Well, here it is seven years later and I think no more than 1 dozen tribes out of more than 200 tribes in Alaska have certified enrollment systems. This is not a complicated process of getting tribal enrollment systems certified, but yet now we're going to see people who are much more confident loose their jobs and this individual in the BIA here in Juneau, it's my understanding he's going to hang on to his job.

I think there needs to be some way that we can modify the civil service system so that people are not retained only on seniority, or, what I call the old fashion way, based on seniority and who they know upstairs, or who they know in high positions. I think it's very important for us to instead be paying people who are productive and are sincere about enhancing the rights and powers of tribes to deal with the services that their people very much need. Once again, thank you very much for listening to my comments.

I have some written comments that are different from my oral comments so I'd be happy to answer any questions at any time.

Thank you.

[Prepared statement of Mr. Thomas appears in appendix.]

Senator STEVENS. Thank you Mr. Thomas. I did read your prepared statement and, after our other two witnesses, I would be glad to discuss some of the conclusions. I think they are very important, what you reached in your prepared statement. Thank you, Mr. Thomas.

Mr. Naneng.

STATEMENT OF MYRON NANENG, CHAIR, HUMAN RESOURCES COMMITTEE, ALASKA FEDERATION OF NATIVES AND PRESIDENT, ASSOCIATION OF COUNCIL OF VILLAGE PRESIDENTS, ANCHORAGE, AK

Mr. NANENG. Yes, Honorable Senator John McCain and Honorable Senator Ted Stevens. [Native phrase], which means, "thank you for coming." And I would also like to thank you for giving me an opportunity to address you on the issues that are very important to our people in the villages.

The BIA reorganization program, I believe, it was one that has been a long time coming because as the previous speaker just said that a lot of the funds that were allocated for our villages never got there to benefit the people that they were originally intended to provide services for. Currently there are some BIA programs that are not available. One, law enforcement, the other one, there's very limited tribal court ability in the villages because of lack of funding and there are other numerous programs that I could probably list that are not available to the people in the villages that need these services.

In my written statement I say that the State of Alaska has failed to address the issues of the needs in the villages. One under Public Law 280 that concurred jurisdictional language, but at the time same time the State does not want to recognize the villages, the traditional councils, to be able to address the local judicial concerns that they may have. Recently in Bethel we had visitors from the State commissioners to try and bring the issue of more funding for

more staffing, for services that are provided by the State of Alaska, but the issue that came back, or the response that came back from the people in the villages is that we need to at least control some of the issues and concerns that we have within our villages and that will be addressed by recognition of tribal governments and tribal courts to address these issues.

Right now in villages there is no way of addressing the judicial concerns that may happen within the village. If an individual commits a crime of some sort, whether it be a felony or misdemeanor, there's no communications with the village. The village is powerless and that sends the wrong message to the young people that live within the community. I believe that we need to work together to accomplish to let the State recognize that people in the villages have as much power to address these concerns and issues. And this can be done by empowering them and by recognition.

There are some other concerns that we have. In terms of funding that come to the regional entities through BIA to provide services, the requirement for us there seems to be two standards.

One, the requirement for us is that we have to have approved resolutions from the communities in order to provide the service, which we don't have a problem with because it is tribal money. But for other programs and services that come and address issues that are pertinent to the villages, they don't need the authorizing resolutions therefore they provide them and then we have to compete to try and go for those funds in order to be able to address the concerns that we have within our regions and/or within our villages.

More recently, the Bethel agency closed its offices in Bethel. I wonder if that was part of the reorganization plan? Also the fact that most of the villages within our villages and our region and in many of the other parts of the State, there's another agency office that closed as a result of the regional organizations along with the villages contracting the BIA programs. However, some of those villages are still being provided services by the BIA and the relocation from Bethel to Anchorage further removes the ability of the people to work with the agency that is supposed to help them and support them in addressing issues on their behalf; and I believe that this has to be taken a look at and reviewed under the BIA reorganization.

And one of the other comments that I've heard under the reorganization plan is the possibility of relocating the Juneau area office to another location under the State of Alaska. Yesterday at a meeting I heard that there was an Alaska center in Seattle. We should have the Washington center in Alaska for State of Washington. And I may be facetious in saying that but, I think that we have to realize that the issues that come up from the State of Alaska are usually a lot more different than those that are being presented by other tribes in the rest of the contiguous Lower 48.

So in that light I think that we really need to take a look at the reorganization so that the issues and concerns that we have from Alaska are not ignored and completely lost within the system.

With that, I would like to thank you for giving me the opportunity.

[Prepared statement of Mr. Naneng appears in appendix.]

Senator STEVENS. Thank you, Mr. Naneng.

Mr. Mayo.

STATEMENT OF WILL MAYO, EXECUTIVE DIRECTOR, TANANA CHIEFS CONFERENCE, FAIRBANKS, AK

Mr. MAYO. Thank you, Senator. I would like to welcome you to Alaska on your first trip up, and we certainly hope to see more of you up here.

I know that we watched, with great interest, the events in the Senate with the BIA funding and we watched with dismay as rocks and trees and forests and animals all took precedence in the Department of the Interior over the human beings, the first people of this Nation. And we're very distressed, but we're very gratified to witness and to read the Congressional Record and the Senate deliberations on this so when yourself, Mr. Domenici, and others, including our delegation, have been very supportive of our efforts; but we're very gratified to see your efforts in helping to restore the inordinate reductions that we're looking at there.

We understand that there has been a significant restoration. We hope that as the conferees continue to look at that, that they will do more restoration. We, at least I, had never stated that I wanted to be exempted from belt tightening, but that we should not be inordinately cut as opposed to other agencies.

At any rate, thank you for your help there. We're very grateful. I think you received a bunch of letters from Alaska. I know I sent one thanking you for your help as well as to our own delegation for their help.

My name is Will Mayo. I'm the president and chairman of the Tanana Chiefs Conference. The Tanana Chiefs is a 42-tribe consortium, and we are of the interior of Alaska, predominately Athabascan Indians but we also have attracted a few Upiets and Upuiks and so on to our country and, but at any rate, we make up a huge area of Alaska, about 39 percent of the land area of Alaska is represented in our region; 75 percent of our tribes are off the road system. Air travel is the only reasonable and available source of transportation and as is so often the case with small communities, they face tremendous challenges in trying to keep their concerns before lawmakers, both at the Federal and State level. But in our case we have been fortunate to have a lot of help in that area.

But we have grown concerned with all the talk of restructuring and so on. We would like to make a few comments and you have my written comments.

First of all, I notice in the preparation that we didn't come out specifically on your legislation, but I want to say here that we support the principle and the spirit of your legislation. We think that you're on the right track. Let us, let us do something that is—that we can work with them as equals and not be talked down to, but talk with them and shape and form something unique to our area.

The first comment that I want to make is that compacting has been a tremendous success for us in our area. We contract and compact for both BIA and IHS services in our area, and we've compacted under both of those and we have experienced a tremendous amount of flexibility to shape and form. We are actually quite happy with the results. But a byproduct of this also has been, and

I think it's been something desired by everyone, has been that, because of compacting, restructuring has been occurring in Alaska, and I can say, for example, in the health compacting, we are one of many organizations, tribes and tribal organizations in Alaska who united and joined together under one compact and we have 195 tribes in one compact and this just blows away our colleagues in the rest of the United States. They cannot fathom how such a unity could have been accomplished and they have suddenly also realized that the power that it has given us in restructuring our services in Alaska in a way that is—represents and reflects the desires of Alaska Natives toward how our services are provided.

So this tremendous unity that this has brought also gave us tremendous power in sitting down with our area office. And that was, it was not necessary to have that power to force and break arms because the area director for health services in Alaska was very supportive and very cooperative all the way through the process. We have restructured Alaska and we're still in that process.

The other thing is, we are now looking at a statewide Native proposal to contract for statewide and central statewide services and also for functions in the area office, but keeping the area office here. We don't have to eliminate it.

On that note, one of the concerns in IHS, the restructuring that we have, is that we do not want to see our area offices moved out of Alaska. This is very, very disturbing because as Alaskans have experienced in the past, whenever the things that are done for us are farther away, the less we have to say about it, and we find that inevitably our abilities are reduced and our voice is reduced. So we would urge that the uniqueness of Alaska and that we are, I believe, even in the military service they consider us overseas duty, and I don't know if that's still true, but I know that it was in the past, in the recent past. But we aren't overseas, yet we sure get treated that way. What I'm saying is, we have managed to make tremendous strides in restructuring and reorganization already in this State. We think that movement of any of the resources that are in the State out-of-state consolidate them with other areas would weaken and damage a delicate structure that we've been able to make up here.

So that would be the thing that I would urge is to, in the considerations of restructuring BIA or IHS that we be given the consideration that we are accomplishing a tremendous amount in State.

Now, when it comes to headquarters and the Central Office in Washington and Rockville, it's a different story. We know that we have had a tremendous amount of difficulty getting in to that so, what we would like to ask is that considerations be given that would enable the movement of resources that we have been unable to budge from those headquarters, the movement of those to a local area where we know how to use them. We can use them effectively. We've shown that and we will thank you for your assistance in that area.

Another issue that I wanted to bring up in the area of compacting in the Department of the Interior and other departments what we've grown to refer to as non-BIA compacting, we have tried to enter into compacts with BLM and Fish and Wildlife, but have found a lot of difficulties. One of the primary ones is that they don't

seem able to grasp what this is all about. And so we find that, while we've been able, over the years, to sensitize BIA, to put it nicely, with your help, we find that we're about 40 years behind with these others. They simply don't seem to know what to do with us, and in their fear of what we want to do or what they think we want to do, they seem to tighten up and resist.

We would like to propose that there be some kind of a process where those other agencies can utilize the good experience and skills developed with the Self Governance office in the Interior Department, in BIA, and that we don't have to reinvent the wheel two, three, four times with these other agencies, but that they somehow be brought together under the good leadership of some really good staff work done in the BIA I have to say.

So with that, the last point is on Medicaid. We're very concerned about Medicaid. I just wanted to plug that briefly. I know others will probably talk about it. We need, we think that we would like to see, well we know we would like to see some kind of a special allocation or allotment for the tribes. Otherwise we're going to be badly hurt and the systems that we so arduously built and made from our own work could be irreparably harmed.

So with that, I thank you very much for the opportunity to testify. There is so much we could say to you and that's why I hope you come back and we'd like to give you, if you have more time, give you additional experience with other villages around the State. I'm glad you went to Tyonek; that's very good news that you did that, and thank you very much.

[Prepared statement of Mr. Mayo appears in appendix.]

The CHAIRMAN. Thank you very much, and I would like to respond to some of your comments too.

First of all, on the cuts that were made, the reason why Senator Stevens and I and Senator Domenici and others that have been involved in Native issues for many years were upset is because the initial cuts were vastly disproportionate to the cuts within the Interior bill as you pointed out, Mr. Mayo.

And then what compounded it, in my mind, was that there are some people who are traditional friends of Indians and Native Alaskans who bailed out on us and it was very disappointing and disillusioned and without embroidering on your depiction of improprieties I'm afraid that that conclusion could be drawn. We were able to restore and a lot of it had to do with Senator Stevens who, as you know, is a member of the Appropriations Committee, was able to restore some \$86 million and that's the good news, but the cuts were well over \$200 million as you now and I'm deeply concerned about the overall effects of these cuts that we are going to have throughout Indian country as we call it.

We have been struggling in this whole effort when we return funding and authority and responsibility to the States to also block—make sure that the funds go to the tribes rather than through the States. Whether it be in welfare or it be Medicaid reimbursement, whether it be in Indian legal services, whatever it is, that way we try to protect the Indian funding. We know what happens in most cases when money goes through the State and then to the Tribe and then finally on the compacting and contracting problem, non-BIA agencies. We just have to educate them as to

what the process is. Many of them had not been involved in it for along time. There were no written regulations to implement the language to allow tribes to compact and contract with other agencies of government, but we'll continue that effort because there are just too many services that are provided by agencies aside from the BIA and IHS.

I appreciate your support for this legislation. I want to reiterate. It was based on the recommendations of the Tribal Task Force on the Reorganization of the BIA. Those recommendations were rejected by the BIA at the end of the day. That's why I'm concerned and my first question to you is, BIA who initially supported this effort has now come out in opposition to it by saying that legislation is not necessary, but they are reorganizing the BIA administratively and that legislation is not necessary.

I would ask the witnesses if they believe that legislation is necessary or would Tribes believe that BIA reorganization could be accomplished without that? Mr. Thomas?

Mr. THOMAS. I firmly believe the legislation is necessary. I think even the bureau itself by opposing the thought or bringing forth the thought that maybe it would not be necessary, makes it necessary. It's a sidestep that we're all too familiar with, and I think it's important to use some of the principles that are put forth through a lot of Tribal input to retain those resources necessary and move them down to the tribe agency level and to also provide consultation in the process.

I think one thing I want to make very clear here is that I think the issue of tribal consultation is really, has really become a hinderance here in our State. I don't think we have to have a situation where the area director has to go to each and every tribe. The least they could do is share his plans with us, either in regional level, give us some duties of going out and working with people we serve and if we fowl it up in the meantime, we could take the heat for it, but with just pure ignoring any kind of consultation because each and every person can't be consulted with is not right either. We've got to find some in between spot.

Mr. NANENG. I concur with what Mr. Thomas was saying. There is a need for legislation to implement the reorganization plan because what we have seen in the past is that it is not necessarily the BIA but other aspects of history, where it's like we'll do this and then a few years later somebody else comes up with a different idea saying that it's not going to happen. So with that, we need to discuss these others issues that I was going to talk about.

Mr. MAYO. Yes; we need your help with this. I, you know, we've got many years experience with the BIA and I think that it is necessary to have legislation. The—when we were compacting, the BIA withheld things from the table, huge, huge amounts of resources, programs, and authorities were withheld. The headquarters office said, we're compacting, we're going to give your 42 tribe consortium \$45,000. That's your share of the Central Office. Period. End of discussion. Don't bother us. And we know that they have considerable resources there that rightly should be on the table for compacting. Through that process, we could form a system that works for us, and what we've seen is steadfast resistance.

I think legislation is needed. They need a mandate and I think the legislation should state unequivocally that that the BIA everything is on the table and the tribes have an equal footing. We know. We're smart enough to know what Federal responsibilities should stay with BIA and which should be moved on. We're smart enough to know what is needed to be preserved, so yes. Clearly yes.

Thank you.

The CHAIRMAN. One of the reasons I'm up here, Mr. Mayo, we'll start back with you to make it easier, is because we have a unique kind of situation here in Alaska. We have more than a dozen large and well established regional service organizations and then we have many, many small tribes. Some extremely small. Given that situation, what should the BIA and IHS look like? What rolls should they play in Alaska that has this kind of situation?

Mr. MAYO. Well, I think the pattern that you see has been one where the Native people have been always adaptable, able to look at the resources of any given situation, break it down to its lowest common denominator, and rebuild it for survival. And that's what we've been able to do in Alaska.

And because of these necessities, we have become very adaptable and flexible and we—and the system we are creating, for example, in the health care area, is a unique example of that adaptability and flexibility. What you see occurring here now, and I think it would be wonderful if we could get me some briefing materials on what isn't occurring and what is occurring, well, what you see occurring here now is just a foreshadow of what will continue to occur.

We are best able and know best how to structure the services in State and all of the numerous tribes have banded together because of their size and the extremities of their existences and for maximum efficiency. We are continuing that process and I think that because we are very unique in that regard, we should be given maximum flexibility and continuing to shape this thing the way we are.

And that's the kind of help that we need. Not to be told no and hold hands arms length from doing what we know needs to be done. So that's what you're going to see continue.

Mr. NANENG. Like Will says, we are, we've been very flexible in the way we have been providing services. Within our own region of the agency we have 56 villages within the region. We've got not just one consortium, but at least four of them that are currently operating combining their own sub-regional concerns and issues.

The services that are provided are at different levels within the communities. But one of the biggest things that's going on right now with the compacting plan that we have and we hope that it can be funded to the fullest extent possible is that we're going to be working to build local capacity. That means that each and every one of the tribes within our villages will be able to have a tribal administrator so that their tribal council will be up-to-date on all the issues that are going on so that they will be well informed and able to deal with the issues that come before us.

The CHAIRMAN. Thank you.

Mr. Thomas.

Mr. THOMAS. I think probably the best role would be one of the resources center providing technical assistance and accurate information on budgets and other new funding sources. I think that the statement that we have a lot of well-established regional governments contracting is very true. And yet there's a strong interest on many villages.

Well, so often they do not have the kind of support necessary to get off the ground and I want to thank Senator Stevens for working so hard for small tribes funding that initiative a couple of years ago and he supported us on that issue. Because what happens if we have a tribe that is so small that they don't a base amount of dollars then they have to use programs dollars for administration. And when you use those program dollars for administration the services don't get out and so what we're doing is wasting money on administration.

So I think by providing—I mean by having the BIA becoming a resource center providing good technical assistance and good accurate budget information in that timely manner, I think most of the villages of medium size can take control over their destiny and become more efficient at managing their own resources. And I think that most of the regions are interested in having strong or a good strong basis and understanding at the village level because even if they don't manage their own programs like in my region, when they know more about the program, they make better judgment decision on what is needed in their communities.

So that kind of thing I think is very important in the future that the Bureau be geared up to be good technicians to make sure the job gets done.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. I think that the hearing so far justifies being here, Senator McCain.

You know, through everything I was hearing in Washington, we'd be lucky to have one member of the Alaska Native community have five, maybe 10 minutes out of the 2 hour-period and as a consequence of Senator McCain being willing to come here, you're able to really have a dialog that is quite interesting and I've enjoyed that very much.

As Senator McCain just mentioned at the veterans meeting, we were both on the telecommunications sub-committee of Congress and we're working very much in terms of trying to find a way to eliminate the necessity for actually being present in a major city, hold a job in a major city. We believe there's soon to be telecommunity, that you will be able to be—I don't care whether you are in Phoenix or somewhere in New England, you could hold a job for someone running a business in New York or San Francisco or Los Angeles. In our opinion, it's not too far away. I only mention that to you because the restructuring we're talking about now and what you've been involved with primarily in restructuring of the existing BIA system, we are working in this other committee of mine now on the total restructuring of the whole Government a reorganization and hopefully as you mentioned, we'll have the Indian Alaska Native function somewhere in a human resources department as opposed to a natural resource department. We won't have that same thing happening in the next century dealing with this fund-

ing problem, competing with the preservationist other operations of natural resources and Department of the Interiors compared to that one real human function which is BIA.

But I just ask you this, are you in terms of your looking at this restructuring taking into account the changes that are coming? We're going to be looking to programs, be they welfare or Medicare or Indian Health Service, to provide a basic Federal safety net for those people who have not been able to work or unable to find a job, but there is going to be increasing emphasis on employment on the reservations or in the native areas.

Right now what we're looking at in terms of the compacting, for instance, is the sharing of money on the managerial side. We've not had any sharing yet on the problematic side of job creation, loan guarantees and that. Are you looking at those sort of BIA functions also. Let me ask you, and let's start with you Ed.

Mr. THOMAS. Yes; we're trying to keep one step ahead of all the changes in all the departments. Last year, or maybe it was the year before, we signed the first compact under 477 which consolidates many different agencies, not just BIA or the Department of the Interior, but the Department of Labor, IHS, all those employment programs are consolidated under loan compact and under one administration programmatically so that a person coming in for welfare can also become analyzed for their job ability if you may. Whether they're employable or not employable and what kind of training then they would be eligible for to prepare them for a job. So yes, that's the direction we're working in and that was our first step to do that.

Senator STEVENS. Well, how have you fared with BIA in terms of sharing of funds for programs of that sort as compared to managerial funds?

Mr. THOMAS. I would have to say that may be a bit early for me to give you a good accurate answer on that. I think, generally speaking, there has been good supporting in moving to consolidation. It was kind of difficult at first but later, like this year, I think it was pretty good.

Senator STEVENS. Thank you.

Myron.

Mr. NANENG. In regards to the programs that we're working on setting up under compacting, we have within our budget the establishment of tribal administrators in each and every one of the villages that have signed the resolution to join our compact. The purpose of that is that eventually with some of the programs that we administer from BIA and prior to getting to the compact we were able to some of the resources. But once we get into the compact we will be able to get these additional funds and therefore we're going to request that these people who are working in the villages to help us administer those programs and to create employment not only for just the tribal administrator for other people within the community. And that's our goal and objective.

The other reason we're also looking at these other Federal agencies to see if they too can also come up with money where we would be able to employ people in the villages that are usually just located at one regional hub and move those jobs not just leave them at the regional hub but also make them available at the villages.

Senator STEVENS. Will, do you have any comment?

Mr. MAYO. Yes; we have thought about those areas and I think with the compacting we've been able to accomplish quite a bit in that area. We've gotten into—I think the reason if you look at the Juneau area office of the BIA you'll find that they have reduced significantly and it hasn't been just administration it's been problematic functions all the way down the line. But previously they had chosen to retain there, but under compacting we were finally able to get in there and move those jobs and opportunities and program functions closer to home and that's been the wonderful thing about it.

I'm not sure that I'm answering your question or understanding it, but if I do I think that that represents some of the good things that we have and we haven't thought about them.

The CHAIRMAN. Good. Thank you.

Senator STEVENS. What I was trying to get at, Will, is the concept that, well, right now one of the problems we face is as the cuts came they hit the managerial side of the Washington office and it took a while until we realized that that cut really hit the compacts and we found that the cuts in the program areas are the areas where they're making money available for job creation, job training and other programmatic areas weren't hit as hard as far as the compacts as the managerial money. Now, I haven't seen much of that really flow out away from the decision makers in Washington as to who gets that money for these various—particularly the experimental programs.

I'm hopeful you will get some of it and I think that's the final objective of Senator McCain's bill. I think it's going in the right direction. Let me stop there John, I do want to hear as many people as possible here today and again I think we better get back to the dialog.

Mr. THOMAS. I just want to make one final comment along that line of thought. Here is Alaska as well as in many other Indian reservations, the economy is very stagnated. As a matter of fact, it is very weak. And the taking away of the BIA guarantee loans or even a direct loan program is even better than a guarantee loan is really penny wise because I think some of our people are moving into the capitalistic society and understand a little bit better how businesses work and I think a little influx of dollars made available will go a long way to making them productive in the long term.

And so I hope that in the long term we'll look at some more dollars made available to our remote areas with low interest.

The CHAIRMAN. Thank. Thank you very much.

Before you leave, one of my staff came up with a very interesting speech that I'd like to give you all a copy of if you would like to see it. It was made by Senator Sam Houston of Texas in 1854 on floor of the Senate in the very twilight. In fact it was the last speech he ever gave on the floor of the Senate and he talked about how in 1818 the Indians came to Washington and they were convinced by the President of the United States to move west of the Mississippi and how the President of the United States then he told them you're now in a country where you can be happy. No white man shall ever again disturb you. The Arkansas, because of the Arkansas River, will protect your southern boundary when you

get there you will be protected on either side. The white man shall never again encroach upon you and you will have a great outlet to the west as long as water falls or grass grows upon the earth or the sun rises to show your pathway or you kindle your campfires so long as you shall be protected by the government and never again removed from your present habitations.

Then he goes on to say and I'll just—I need not repeat this to the gentlemen who are familiar with the past the tragedies that followed, the sanguinary murders and massacres, of midnight conflagrations, these attest the inharmonious action which arose from this faithless conduct on the part of the Government or its agents. He says I may appear harsh assertions that when have they performed an honest at or redeem in good faith the pledge made to the Indians. Let that single instance be shown and how we would be prepared to retract. It's a very interesting speech and the interesting thing about it was that it was said in 1854 and really a lot of the things made in that statement, made in that speech about promises made are as applicable today as they were 140-some years ago. It is a very fascinating speech and the person who found it, by the way, was the first woman lawyer the open tribe has ever produced who's on my staff and she was quite a scholar.

Anyway, I just thought I'd mention that very interesting historical footnote to you. Thanks for coming.

The CHAIRMAN. Thank you Senator.

Senator STEVENS. Thank you.

The CHAIRMAN. Our next panel is Anne Walker, executive director of the Alaska Native Health Board. Loretta Bullard, president of the Kawerak Corporation and Gene Peltola who is the president.

Ms. BULLARD. Kawerak.

The CHAIRMAN. Kawerak. Thank you. And Gene Peltola who's the president of the Yukon-Kuskokwim Health Corporation. Welcome and thank you.

Mr. PELTOLA. YKHC.

The CHAIRMAN. KHC is known as—

Mr. PELTOLA. YKHC.

The CHAIRMAN. Welcome. Your complete statements are part of the record and please feel free to give your statements however you choose.

Ms. Walker, welcome.

STATEMENT OF ANNE WALKER, EXECUTIVE DIRECTOR, ALASKA NATIVE HEALTH BOARD, ANCHORAGE, AK

Ms. WALKER. Thank you very much Senator McCain. Good afternoon. My name is Ann Walker. I am the executive director of the Alaska Native Health Board. On behalf of the Alaska Native Health Board I would like to welcome you to the great State of Alaska and Senator Stevens, welcome home. I really want to express my appreciation for you to arrange this hearing in Alaska to allow all of us to witness a hearing in front of a Senate committee and have it recorded and brought back and kept in Congress for a formal record of testimony. It's very important to have that kind of dialog with our congressional people.

Alaska Native Health Board since 1968 has been an advocacy organization advocating for the improvement of health status for

Alaska Natives. Through increased financial assistance from the Federal Government for the 226 federally recognized tribes in Alaska as well as through increased self determination and self governance. Alaska Native Health Board has a cooperative agreement with the Indian Health Service to look at making sure that Alaska Natives are informed concerning health issues, and that also to make sure that the Indian Health Service provides adequate consultation when the decisions are made on health issues. We have been an avid supporter of the principles of tribal self governance and recognize that the only true consultation with Alaskan tribal governments is on a one-to-one basis with the tribal councils themselves. So my testimony today is not intended to be a substitute for such consultation.

You've asked today that we talk about the reorganization of the Indian Health Service and BIA and I would like to focus my comments on the Indian Health Service. NHB has been for many years in our 26 years of existence, helping the Indian Health Service reshape their services as they're delivered to Alaska Natives. We have been participating particularly, and involved since Congress has asked that the Indians Health Service present a reorganization plan to them by fiscal year 1997. We are considered nationwide to be leaders in the 638 contracting mechanism. We have been very successful in transferring the direct Federal services to tribal management and how, as Will had mentioned, we're very involved in the demonstration project on the IHS side for compacting and we currently have 195 tribes participating in the Alaska Tribal Health Compact out of the 226 tribes. We have several main longstanding overall recommendations to the Indian Health Service and to Congress about our concern for reorganization, the first being making sure that the Federal trust responsibility and recognition of the government-to-government relationship is primary and always has been and always will be primary.

In that, you had mentioned earlier in your opening comments, that the decisionmaking must move from one of consultation to one of partnership with tribes. We feel that this is critical. We also feel that we have the support of the Alaska area Native health director in that partnership. We feel that that was critical in the movement that we're making with our compact, the Alaska Tribal Health Compact. One of the comments that we have expressed over and over is to decentralize the decision making to the greatest extent possible so that decisions are not getting made in Rockville or the decisions are not always getting made at the Anchorage level, but those decisions are being made on a very basic level at the tribal level as well as at the regional level.

We really would like to see that the Federal Indian program agency shift from one of mandating and monitoring to one of providing support and advocacy for local programs that are operated by tribes and tribal governments.

We also are really concerned that the savings that are realized from restructuring and the one's that we're involved with currently with compacting and the decentralization of health services in the State of Alaska, that those savings be plowed back into services. I don't know that if you realize that we're only at a 70-percent level of need funded, and in a recent survey that Alaska Native Health

Board has done, we feel that we're only at a 50-percent level of need funded for our Indian Health Service program in the State.

We also feel that the deficiencies in health services for urban Indian programs must be addressed through increased appropriations because what's happening now is we're beginning to cut a small piece of pie into greater and greater pieces and it's causing very much disharmony among the tribes and the other Indian people in the Lower 48 States.

Will mentioned in the previous panel, Will Mayo, that the Alaska Tribal Health Compact is something that is very amazing to behold when you're participating and Gene Peltola and Will Mayo and myself as well as some of the participants in the audience returned from a meeting this morning and yesterday where we're talking about the future management of the Alaska Native Medical Center. We have been in a joint planning process with the Alaska area Native Health Service for several years now on this whole idea of transferring management from the Indian Health Service to the tribes in the State. We think that the lessons we have learned in this area can be used as something that the Indian Health Service can use nationwide as an example. What we've done is, we have developed a plan for gradual restructuring so that there's very minimal disruption on the Federal employee and that this is to occur over a 3-year period where the Alaska tribal health compact is involved in an orderly fashion, and transfer of Federal responsibilities to tribal management in total over that 3 year-period.

This plan has been developed using formal consensus decisions making processes which often times have gone into the wee hours of the morning with all of the stakeholders, including the area office involved. We are really looking at making sure that in this process the system that we have developed under 638 contracting and the system that the Indian Health Service has developed since the early 1900's in Alaska not be destroyed.

A health care delivery system is very critical in that especially in Alaska because of the large geography that we have and when you look at public health programs, the integrity of such a public health system must remain intact and we feel that working closely with the area office as well as making sure that essential statewide services such as the Alaska Native Medical Center which you toured earlier today, remain intact. However, the management will gradually move from one of direct Federal management to one of tribal management. We are in the process of those negotiations and deliberations currently.

One of the things that we're specifically concerned about with restructuring of the Indian Health Service and it was in the recent Indian Health Design Team draft report that you talked about earlier, is the development of regional support centers.

We're very concerned that, in the creation of such regional support centers that the Alaska area does not lose its presence. We feel that we are so far removed from the decisionmaking in Rockville as it currently is and that our interests and our service delivery system is so different from tribes in the Lower 48 States that if such a center was created outside of Alaska that we would lose our voice and our ability to deliver health care services in the most efficient manner in which we believe we are doing today.

We, Alaska Native Health Board, at its August meeting of last—a couple months ago, unanimously objected to any proposal to relocate the Alaska area office away from Anchorage and we presented a resolution to Dr. Trujillo on his recent visit to Alaska. We feel that the Indian Health Service must maintain their accessibility to the 226 federally recognized tribes in Alaska because with the cost of travel and communications between our Native health organizations and tribes to out-of-state regional support center would be prohibitive as well as their understanding of what it is that we do up here in delivery of health care services.

So our membership feels that the self governance planning process that I've described constitutes a contribution to the reduction of the Federal bureaucracy and that we feel that we have contributed in restructuring and that the IHS should be considerate of our concerns and that we really would like to maintain an area office presence in the State of Alaska.

I would like to spend just a minute switching my train of thought and talk about the impacts of limiting the IHS and the BIA appropriations. All of our planning over the last several years in the whole idea of compacting 100 percent of the health care delivery system has been based on sustaining the funding levels for Indian Health Services in the continuing years and that the recent reductions or planned reductions in the budget of the BIA will clearly impact the ability of that agency to manage services through self determination and we feel that this is a foreshadowing of what will happen with IHS in the future year.

Dr. Trujillo recently made a statement saying that as BIA reductions, BIA funding cuts happen, that tribes will begin to lean heavily on the Indian Health Service programs and that in such areas as social services and child protection needs and that the cost shifting we feel that this cost shifting is unfair and unacceptable to Alaska Native people.

We think that if you look at the current fiscal year 1996 Indian Health Service appropriations, even though Congress has said that those appropriations are steady and maintained, it does not accommodate many areas that are required in the health care service delivery area. For example, the cost of medical inflation, growth rate for patients, mandatory Federal salary increases, the need for contract support as you shift from Federal service delivery to tribal service delivery. And that, more importantly, the problem is compounded when we look beyond the horizons of the Indian Health Service to what's happening in other health and human service programs.

Most serious is the current Congressional initiative on restructuring Medicaid and Medicare. Right now, Alaska has more than 10 percent of its direct revenues from Alaska Native health care providers come from Medicaid. Nearly 30 million dollars annually in operating expenses are provided for Medicaid and Medicare through the Indian Health Service. Alaska Natives also benefit as well from participation in the State's Medicaid program utilizing non-IHS facilities and services. For example, patient travel, we use \$8.7 million in order to access IHS facilities. Once this comes under a cap, we believe that patient access will become a major issue.

The Alaska Native Medical Center and many of the tribally-operated hospitals in Alaska and health centers depend on Medicaid and Medicare revenues and support as much as one-third of the fixed operating costs of those budgets to deliver services.

One of the things that we propose is a separate allotment, uncapped or capped, to be identified in the form of State claims for MediGrant reimbursement for Medicaid payment to the IHS or tribal programs. We feel that, although 100 percent of the reimbursement appears to be an element and the Medicaid reform language is in both houses, well that may not be secure. Those Federal funds are within the State's capped entitlement and that this effect will be, will pit IHS and tribal providers against private providers. We feel that that's wrong; that it will only increase the animosity between, and this is particularly true in the Anchorage area, between private providers and the Indian Health Service and tribal providers. Also what this does is it constitutes a direct shift of Federal responsibility to the States and that this is, this is a breach of Federal trust responsibility. So again, we advocate for the creation of a separate Indian Health Service allotment from which IHS and tribal claims could be paid.

We don't believe that this policymaking should be individualized to 50 State Governors and the legislatures from those States. In summary, we are working very closely with the Indian Health Design Team and we support the overall direction. We're concerned that regional service centers that get created, if they do get created, that Alaska be given special consideration because of our remoteness, because of our willingness to work together to give up in order for the better of the whole.

We are very concerned that there are elements beyond the Indian Health Service and tribal program that will reshape Indian Health Service that we have very little control about, particularly the Medicaid and Medicare restructuring and we would like to see Congress make a special effort to protect health services for American Indians and Alaska Natives by giving a separate allotment for Medicaid and Medicare to Alaska Natives and American Indians.

[Prepared statement of Ms. Walker appears in appendix.]

The CHAIRMAN. Thank you very much.

Ms. Bullard.

STATEMENT OF LORETTA BULLARD, PRESIDENT, KAWERAK CORPORATION, NOME, AK

Ms. BULLARD. Thank you. Good afternoon Senators. My name is Loretta Bullard. I'm president of Kawerak Incorporated, which is the regional non-profit which provides services the Bering Straits region of Alaska; and our service delivery area is about 26,000 square miles, which I think is about the size of Wisconsin. We have 7,000 tribal members living in the region. In January 1995, the Kawerak Board and key staff of Kawerak participated in a vision retreat and I wanted to make you aware of what our division of Kawerak is. "Building on the Inherent Strength of our Cultural Values, We Shall Empower our Tribes to take Control of Their Future" and we felt that we had to go through this process and define the vision, because even at the regional non-profit level with what our—it is really important to the future, I think many years ago

when the regional non-profit started, we started as service providers. And I think that by adopting this vision statement for Kawerak we've made the recognition that we're moving from being a service provider to this I think is in keeping of what BIA is now having to gravel with their role of the future. Before I move on into comments comment about the reorganization, I just wanted to express a concern regarding language that was in the Senate appropriations bill earlier this—just 1 or 2 months ago, where they would have moved trust services and dollars out of the BIA to the Special Office Trustee for American Indians within the Office of the Secretary. We're concerned because we're afraid that these dollars may become inaccessible to tribes; we're concerned about the staffing of this new office, and we're also concerned with the title to the special trustee and we're recommending that the title be amended to add and American Indians so that would be a special trustee for American Indians and Alaska Natives.

Moving on to the reorganization, we reviewed S. 814 and we would like to offer some general comments and recommendations. I think that there's some excellent provisions in the bill which, if implemented, would help make the BIA more responsive to those it serves.

We recommend that the Bill language be changed to make no distinction between allocating Central Office verses agency and area funds. There's language in the Bill that states that tribes will only receive excess funds from Central Office and not tribal shares. We feel very strongly that tribal shares should be made available out of Central Office. For the past 4 years, Kawerak as a compacting tribal organization has been attempting to get shares out of Central Office and like Tanana Chiefs conference, even through we had 20 tribes in our consortium we got \$45,000 out of the Central Office. We understand that there's language in the, I'm not sure if it's the House or Senate, appropriations report which states that no Central Office shares will be made available to compacting tribes for this fiscal year. For instance, for fiscal year 1996, I think we negotiated a total of \$172,000 as "our share" of Central Office which we understand we can just take right off the top of our annual funding agreement with the BIA because we've been told that there's no way those dollars will be made available.

We recommend that the Bill be amended to allow Tribal Consortia when duly authorized by resolution on behalf of their federally recognized tribes to negotiate for implementing a reorganization compact plan to vote on plan, enter and accept the tribal share of BIA funding. I think that in compacting even we had a difficulty at first even getting into compacting because there was unwillingness to recognize that consortiums, when authorized by the member tribes, should be able to participate in compacting activities.

Title I, II and III of the act are laudable. In this time of Federal budget cuts, it's absolutely critical that tribes participate more fully in the BIA budget process. As illustrated by Congress, budgets dictate structure regardless of what the organization chart looks like. Section 502 of title II, would help to address the fund distribution inequities among BIA area offices, and I feel real strongly that needs to be addressed, you know, that's been an issue, I think for years and you know the response being that you know, when new

money's made available within the BIA that at some point it would be addressed that I think in this time of declining resources, it's even more important that issue be addressed.

Moving on to reorganization process itself, earlier this year in anticipation of congressional budget cuts, Juneau area office did hold a meeting here in Anchorage to discuss how the Juneau Area Office should be reorganized. And at that meeting, I encourage those present to explore tribal compacting of Federal programs as an effective means to cut the Federal budget, reduce the Federal bureaucracy, and improve service delivery and accountability at the local level. Kawerak has been compacting since 1991 on behalf of our 20 member tribes in the Bering Straits Region. And, you know, it has increased the funding level at the regional level, it's given us flexibility, we create new programs, request waiver for regulations, we get funding in advance of the fiscal year, I think that the benefits are just tremendous.

But even over and above that, you know, the Office of Self Governance in Washington, DC has now six employees and I think that they prove as a—they are a very good example of what can be done when you streamline the process. Over the past 4 or 5 years they've been able to move \$130 million of BIA resources from out of the BIA infrastructure to the tribal and tribal consortiums level.

Now, you have five or six people that are managing these dollars and the tribes are doing a wonderful job managing those resources at the local level. There's a minimum amount of money being spent to provide Federal oversight and I think that this is possible not only within the BIA but other agencies that provide services to Native Americans. I cannot even begin to estimate the savings to the Federal Government if BIA had reorganized concurrent with compacting.

For those tribes and Tribal Consortiums which have proven their capacity to responsibly manage Federal funds, self determination should become the norm in BIA, IHS and other Federal programs. I encourage this committee to take Senate Bill, maybe not right now, but in the future, take this process one step further and closer review the success of BIA compacting as a model for reorganization of the tribal Federal relationship and other branches of the Federal Government. We would like to see the same level of success and the same level of effort replicated for the non-BIA programs and functions that we've been able to achieve on the BIA side.

It is absolutely critical that negotiating and the oversight process for the non-BIA programs be structured to facilitate success. For the past 6 months or so I've been serving on the—as a member of the Tribal Self Governance negotiating rule making committee representing the interests of compacting tribes and Tribal Consortiums in Alaska which are interested in compacting for BIA and non-BIA functions. Concurrently Kawerak has been attempting to negotiate an annual funding agreement in the absence of regulations with National Park Services for functions and activities associated with the Bering Land Bridge National Preserve and with the Bureau of Land Management.

I think that there are some critical elements missing from the process which are making compacting for non-BIA functions extremely difficult. More difficult than our experience was with the

Bureau of Indian Affairs. The Department of the Interior is interpreting negotiations for non-BIA, non-Indian functions as being purely discretionary on their part. I think that Congress needs to clarify either through report language or a new act that this is not discretionary. The non-BIA agencies have taken the position that tribes will negotiate with officials at the local level rather than negotiating with policy level individuals who have the authority to make things happen bureauwide and bureau down, we're having to negotiate our way up the chain of command.

It is inconsistent in the government-to-government relationship that our ability to enter into an annual funding agreement on behalf of our 20 member villages rests on the discretion of individuals who are opposed to our compacting. Rather than creating one office within the Department of the Interior which would oversee and provide direction and support to all the Department of the Interior tribal negotiations, each Bureau within the Department of the Interior is pointing individuals within each Bureau to oversee the process and for the most part, these individuals have little knowledge of Indian law, no experience with tribal organization, and no experiencing with compacting.

I encourage this committee to establish direction whereby one Office of Self Governance is created within the Office of the Secretary. When compacting extends to other Federal agencies, the Office of Self Governance in the future, I would hope, would be elevated to within the Office of the President. During our efforts to compact with BIA, an individual was appointed to oversee the process, to have the authority and drive to make compacting happen. This has not happened in a non-BIA program and it is critical that this occur.

In summary, Kawerak recommends that S. 814 be clarified as to how it will mesh with compacting under the Self Determination Act, that reorganization occur within Central Office and that Central Office shares be treated in the same as Agency and Area, that Self Determination and reorganization be legislated for all Bureaus, and that the Office of Self Governance be elevated to carry out an expanded role within the Department of the Interior.

Before I close, the association which is the regional non-profit for both health and BIA services from the Kotzebue area gave me a letter and asked that I present that letter to both yourself and Senator Stevens.

The CHAIRMAN. Without an objection that letter will be made part of the record.

[Referenced letter is attached to Ms. Bullard's prepared statement which appears in appendix.]

Ms. BULLARD. Okay. In that letter they're just requesting that full funding be made available to them in the health corporation so that they can provide a full 12 months of funding to their new hospital in Kotzebue. And then they're also expressing some of their concerns with some of the tribal priority allocation cuts.

The CHAIRMAN. Thank you very much.

Ms. BULLARD. Just in closing, Senator McCain, Senator Stevens, we would just like to thank you. We believe that S. 814 reflects, you know, your commitment to Native Americans and on behalf of Kawerak Incorporated and those individuals that we serve, we

want to thank you for your commitment to develop a progressive self determination policy and we also want to extend our appreciation to our Alaska delegation, Senator Stevens, Murkowski, and Don Young. We've been sending letters, I think down to Senator Stevens' office probably at least weekly, if not twice a week, and we know that he's working hard on our behalf. So thank you.

[Prepared statement of Ms. Bullard appears in appendix.]

The CHAIRMAN. Thank you very much.

Mr. Peltola.

STATEMENT OF GENE PELTOLA, PRESIDENT, YUKON-KUSKOKWIM HEALTH CORPORATION, BETHEL, AK

Mr. PELTOLA. Welcome to Alaska Senator McCain.

The CHAIRMAN. Thank you.

Mr. PELTOLA. Once again welcome home, Senator Stevens. My name is Gene Peltola. I'm the president, CEO of the Yukon-Kuskokwim Health Corporation. We are a Tribal Consortium authorized by tribal councils, by resolutions of tribal councils of the 58 federally recognized tribes in the Yukon-Kuskokwim Delta, Southwestern Alaska. To give you an idea of the size, one-quarter of the federally recognized tribes in Alaska reside in our service area. One-fifth of the Native population of the State resides in our service area. We have in excess of 75,000 square miles in our service area. The standard mode of transportation because you don't have roads, is from airport to airport IFR, and that's not instrument flight rules, that's identifying forests and rivers.

Once again, welcome to Alaska, Anchorage and for giving us the opportunity to address you today.

In IHS reorganization we have a distinct benefit and that is that we follow the BIA. In about a 2 year cycle we're behind the BIA. Bureaucrats in government have a tendency to react like similar to a situation and we're able to benefit from the mistakes that the BIA has made with Native people nationwide.

IHS redesign is important. But for the correct way for it to happen is like as is happening in Alaska. Here the tribal and regional tribal health providers are developing a comprehensive reorganizational plan with full cooperation and partnership at the IHS area office. This is possible because of the 195 tribes have just joined together in the Alaska Tribal Health Compact to take control of their own, excuse me, health care system. In Alaska, tribes are position to take over the area office functions while protecting absolutely essential statewide services including AMC and I encourage you while you're on this trip to get additional information from the AHB as what is precisely transpiring in this process in Alaska.

Medicaid reform has been addressed by previous speakers, but it's important and I'll address it again. Medicaid reform can help or hinder the Indian health programs here in Alaska. IHS and our tribal health programs are dependent now on Medicaid while we work with the State. The Federal responsibility of Medicaid payments to Indian health programs should not, and I repeat, not be transferred to the State.

A separate IHS allotment should be created. To give you an idea of how important Medicaid is to the 22,000 people residing and re-

ceiving services in the YK-Delta in our regional hospital, a full one-third of our current operating budget at the YK-Delta regional hospital is third party reimbursements reinvested into our operations. Previous appropriations predicated upon maximizing these third party appropriations. It's ultimately important and specifically for those of us that prevailed and worked to improve our third party collections to be able to retain the level of funding that we're receiving today and retain the capability of receiving those funds outside of the State reimbursement system.

One other area that we have an important and dire need for in the area of third party collections and we've attempted to address it in 1988 amendments to the Health Care Improvement Act as well as amendments in 1992, but Section 226 of the Health Care Improvement Act still enables third party insurance providers to find loopholes in ways and means of getting around for paying our claims. We take them to court. This is a costly endeavor. Native people are specifically Alaska Native people cannot afford this process. It's costing us a fortune.

I would like to conclude my statements today by stating that it's of dire importance to Alaska Natives and health care to drive headquarters funds out to the area and ultimately to our tribes. I believe that this has to take place in a true partnership with Native people, with Congress. This is not going to happen within the system. The Office of Self Governance and IHS has to be elevated outside of IHS at least to the level of assistant secretary. I administer, today, the largest IHS compact in this Nation, and if the Rockville IHS headquarters were to cease to exist at 5 p.m. today, it would have no, and I repeat no, virtual adverse impact on my operations and my ability to provide competent, professional health services to my people. Thank you.

[Prepared statement of Mr. Peltola appears in appendix.]

The CHAIRMAN. Thank you very much. That's a very strong statement.

Mr. Heeley.

Mr. HEELEY. My name is Steve Heeley. I'm a staff director for the Committee on Indian Affairs.

You had mentioned the technical amendments that you've been working on. We have been in meetings at Senator Stevens' office in trying to work through the language on those technical amendments who affect the third party reimbursement, the problems that you're currently experiencing and we're hoping that that will be part of four amendments included in part of the Bill as 325, that's Indian Technical Amendment Bill, that should address the problems that you've had with regard to third party reimbursement for health issues.

Mr. PELTOLA. I thank you for that assistance.

The CHAIRMAN. I want to again point out that Senator Stevens' staff has been working with us very closely on that. I think they may be able to—we'll be in contact with you when we formulate these amendments in final.

I want to thank all three of you for being here. It's my understanding that there were 22 tribal representatives who participated in the Indian Health Design Team's report on redesigning the IHS.

Ms. Walker, do you know how many Alaska Native representatives participated in that report and were there any meetings of the team in Alaska?

Ms. WALKER. I believe we had two representatives, or three representatives. Mr. Gerald, Dr. [name not recorded], both Federal employees and Carolyn Michaels representing the Alaska tribes. They plan to have their final meeting in Alaska in January.

The CHAIRMAN. Are you comfortable with recommendations of the team so far?

Ms. WALKER. I don't believe that the recommendations have been fully developed, particularly with respect to the regional support centers. Again, going back to our fear of our loss of input into processing and actually delivering health services, I don't believe that there are very many similarities to the way that the tribes in the Lower 48 deliver their health services compared to the way that we deliver our health services using as the backbone of our health care delivery system, community health aids who serve in villages that are not accessible by road to any hospitals.

The CHAIRMAN. Ms. Bullard, in your final summary, you had said Kawerak recommends that the S. 814 be clarified as to how it will mesh with compacting under the Self Determination Act. I can assure you that that's the whole thrust of what we're trying to do and one of the reasons why I have become absolutely convinced that this is the way to go is because of the success of those tribes and adopted Self Determination and Self Governance.

That's what our whole process is about and I will try to get back to you with a more definitive description of how that happens, but the philosophy is totally compatible. Your second recommendation that reorganization occur within the Central Office and the Central Office be treated in the same manner as agency and area, I think that's a very logical recommendation and I think it applies throughout. We'll be tempting to achieve that as well. And another one was Self Determination reorganization be legislative for all bureaus. That was a question we had from the previous panel, it was discussed in the previous panels.

We just are about to complete a compacting agreement between the BIA and a community in my home State and the community tells me it's the most difficult process that they have ever been through and they simply—the bureaucracies are simply not equipped to deal with the tribes and we have an enormous education challenge here but I don't see us succeeding unless we deal with—perhaps once they see that it is civil and doable we will see some progress there.

Finally, you recommended the Office of Self Governance be elevated to carryout and expanded goal in the Department of the Interior. I'm all for that, but, the problem is not so much where the office is, it's how much attention very frankly that the Secretary of the Interior gives to that office. When we first passed the legislation there was a very high visibility job; we had 30 tribes work out the Self Governance and they saw the priority and the visibility in the office drop rather dramatically. I think perhaps our job may be to hold a hearing and see exactly where we are and what kind of focus has been given to that on the part of the secretary and maybe that will be helpful.

But I think it's one of the most successful, or the most successful experiment we've engaged in.

Senator Stevens.

Senator STEVENS. Thank you very much. I have one question to ask to Gene, if you have any followup on that, but we'll talk about it. But I think it working out and I really appreciate the help of Senator McCain and his staff and we should be able to take care of that when we get back in terms of those technical amendments.

I am disturbed and by the problem that has been raised and you raised it very well, about the relationship of Medicare and Medicaid growth control and the impact on the Indian Health Service programs, particularly here in Alaska. This is a most complicated subject for us and very clearly as we get to the point of trying to separate out responsibility for control of program growth we have come to the conclusion that the Medicaid program will primarily be a Federal amount will be block-granted to the States and we are going to have the responsibility in Washington on the Medicare program and both of them have been exploding at a rate that is just not controllable without sizable increases in taxes going on.

An increase every year would be necessary unless we find some way to reduce the rate of growth. The problem really is that I don't think many people appreciate the fact that there has been a cross pollenization, so to speak, between Medicaid and Indian Health Service and Medicare too to a certain extent. The Medicaid problem is tough for us because there is a State cap. As a matter of fact there's a formula that has been worked out and it's going to be locked in for 5 years. I don't see it.

Anyway, we should have some meetings with you and others from the Native community here. I don't see anyway that we can tell you that it would be possible for us to take Indian programs and not have them capped in a time that the Congress is looking to cap as a way to control growth. Those programs provide for increases over the years. None of them are static. They will increase but not at the rate of the growth in the past.

While I understand with what you're saying, the concepts of even a capped allotment are very difficult when, as a matter of fact it is the State's rights we're looking at in terms of how to handle the Medicaid program. And when you have Indian Health Service primary responsibility for the Native community and then see some of the beneficiaries go to the State for Medicaid services and get them, to say to the State that we would have to find some way of taking that out of the State's cap without any control by them, I would, you know, I think it's an impossible task you're assigning to us and I just want you to know, I've got to be right up front, that we can't do that.

I don't know of any way we can find to do that unless we create an Indian Health Service set-aside at the very beginning. Now, I'm still willing to look at it and it may be possible to take some money off the top and say to the Indian Health Service there's some money, you act in effect for people that are outside of some state's eligibility and therefore we want you to have some money. Even that I think would be almost impossible at this stage with the reconciliation that's coming out just next week, there's not going to be any change in that so I hope that as we go forward in this—in ne-

gotiations you will help us to find some way to meet your objectives without the concept of caps, uncapped levels in the first place, but beyond that without some request that we have your participation, be around the State's block grant program. I don't see any way to do it right now.

If there's a wizard here or someone who can pull rabbits out of the hat, John does it very often, then as chairman of the Indian Affairs Committee, I'd be happy to see if we could find some way to do that. And this is the second time I've had that request in the last 2 weeks and I'm just stumped by it. I don't think it's possible for us to say that we have found a way to work out arrangements with the State and the Governors have all told us they're willing to accept the Medicaid block grant.

And I understand that we are not negotiating with you all perhaps the way that you think we should be, but Indian Health Services in effect is your block grant, and we're not changing that under this program. It's not being subject to the overall allocation between the State and the Federal Government as to this medical fund, so if there's a block grant here that the Indian Native people, its certainly in the Indian Health Service, and if that's not adequately worked out, then we'd have to deal with that in my judgment.

I don't think that we can tell you that we can change the Medicaid decision that was announced last week in terms of how the block grants going to work out and I shouldn't testify here myself now. That's my confession to you. You've asked for help but I don't think we can give you that.

Ms. WALKER. Several comments in response to your comment, Senator.

We're not afraid to live under a cap. We realize that there are pressures on Congress, pressures on you and that we are willing to work within a certain allotment, a certain cap—

The CHAIRMAN. May I ask if Mr. Peltola agrees with that, sir?

Mr. PELTOLA. I agree with that, yes.

Ms. WALKER. And that the Indian Health Service, when the administrative budget is developed for Indian Health Service, they assume that we will collect a certain amount of funding for third party reimbursements, mainly Medicare and Medicaid and that those are reduced from the budget. That dollar amount is reduced. They assume that we will collect those and if you want—

Senator STEVENS. Well, you may still get it.

Ms. WALKER. Right.

Senator STEVENS. But you get it within, through the State system as compared to an uncapped allocation.

Ms. WALKER. I guess I don't understand what you mean there.

Senator STEVENS. You're going to still have people who do get some Medicaid eligibility and you will get, you will get reimbursement as I understand it, through the State system. The State's not denied that yet.

Ms. WALKER. Correct. They haven't.

Senator STEVENS. So you're still going to get what you have had in the past. It will be from a capped allocation.

Ms. WALKER. Right. What we've had in the past has been a separate funding allocation. It has been 100 percent reimbursable

through a separate source of funds even though it comes from the State. It has a separate source of funds for IHS beneficiaries and that will no longer exist.

Senator STEVENS. I understand that. And that's because of the cap and because of the state block grant.

Ms. WALKER. Right. And like I say, that we don't have any fear of living within a capped allotment, our fear is now having to live within that capped allotment within a State block grant which was never done before.

Mr. PELTOLA. And that puts in grand competition with the private sector.

Ms. WALKER. Exactly.

Mr. PELTOLA. Which was never a factor prior to this.

Senator STEVENS. So what you're seeking really is a block grant separate from the States?

Ms. WALKER. Exactly. And we have met with Steve Heeley yesterday, looking at a variety of different mechanisms to do that, one which just became an opportunity last week when Senator Hatch posed the amendment and it passed for the rural primary care health centers. And that perhaps, a set-aside for Indian Health Services within that dollar amount.

Senator STEVENS. I thought, as I heard about what went on last Friday with the Medicaid decision, that would be pretty difficult to do with Medicaid money.

Ms. WALKER. The other thing, Senator, is that in the State of Alaska the State legislature will now determine what those services for Medicaid and Medicare are and that the majority of the decisionmakers come from the city and they aren't as interested in patient travel as we are. Particularly when you look at patient travel as a service that's currently operated—

Senator STEVENS. Well, that reminds me. You touched a button. John, I don't know if you know the history but, at the time when we had the problem of trying to develop a comprehensive system for Indian Health, Native health care in this State, particularly going back to Hammond's administration, we worked out an agreement whereby Indian Health Service would provide the health care but the State would provide the transportation.

It was not until later that we discovered the State was providing the transportation but it was doing so by adding it to the Medicaid reimbursables and asked the Federal Government to reimburse half of it through another, from another source. And that was not the understanding. The understanding in the beginning was the State was going to provide transportation for people to come to, who were in need.

Now, this was a need question. To come to the centers for medical health care delivery in Alaska. Just the transportation. And that we would provide Indian Health Service for the Native population and of course there would be a reimbursement for half the cost of the treatment of, indigent non-Natives in this State through Medicaid. This has become sort of mixed up now and I think we're going to have to go back and sort it out as far as this transportation cost. It was to be a State cost.

Mr. PELTOLA. It's even worse than that, Senator. It's 100 percent for the entire State of Alaska for reimbursement for Medicaid approved travel for eligible enrollees.

Ms. WALKER. So actually the Federal Government is paying for all that through the State of Alaska and that our fear is that service will go away when the legislature determines which new services will be provided and which services will be——

Senator STEVENS. Are you saying that our formula was 50 percent plus the actual cost of transportation on Medicaid period?

Mr. PELTOLA. Medicaid for all individuals, the certified individual, with approved travel right now from a village to a regional hospital is 100 percent Federal reimbursement of payment for that travel.

Senator STEVENS. That's neat.

Ms. WALKER. Under the State plan.

Senator STEVENS. What about non-Native, do you know?

Ms. WALKER. It is 50/50.

Mr. PELTOLA. That's 50 percent reimbursement.

Senator STEVENS. Alright, we'll travel through but this concept of bearing the burden, of sharing the burden between the State and Federal Government in terms of getting patients to the health provider mechanisms, that was an understanding we had the State would bear the costs. I think they have not done that and I think now we may be forced to find some solution again to this problem and we'll work with you on it.

Ms. WALKER. You're very right Senator. Thank you very much for that help.

The CHAIRMAN. Thank you very much and I want to again express my appreciation to Senator Stevens for his partnership in these efforts and I want to thank the witnesses today. It has been very valuable and I promise I will be back but perhaps not before spring time.

Senator STEVENS. Our best friends visit us in the winter time.

[Whereupon, at 3:35 p.m., the committee was adjourned, to reconvene at the call of the Chair.]



APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF EDWARD K. THOMAS, PRESIDENT, CENTRAL COUNCIL OF
THE TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

Welcome to Alaska. My name is Edward K. Thomas. I am the elected president of the Central Council of the Tlingit and Haida Indian Tribes of Alaska, a federally recognized tribe from Southeast Alaska. My tribe has a membership of over 23,000 enrolled members. My tribe was among the second group of tribes to enter into Self-Governance Compacts.

All Alaskans are honored that you have come so far to our State to hear from the people on this very important issue and to see first-hand the conditions under which the people in Alaskan villages live under. I am very pleased that the U.S. Senate (and particularly you, Mr. Chairman) is taking its valuable time to look deeper into the Bureau of Indian Affairs [BIA] and Indian Health Services [IHS] efforts to reorganize themselves. I am honored to be invited to share with you my experiences and views on this very important topic.

I was at the meeting between the Department of the Interior [DO], the National Congress of American Indians [NCAI], and other tribal leaders, at Albuquerque, NM, in 1990, when a plan to reorganize the BIA was officially unveiled by DO Secretary, Manuel Lujan, and Assistant Secretary on Indian Affairs, Dr. Eddie Brown. I was at this meeting, not only as an elected official on behalf of my own tribe, but also as the elected Juneau Area vice president of the NCAI.

The BIA Juneau Area Director invited me to participate in the first meeting of the BIA Reorganization Task Force as one of the three Juneau Area representatives. I was unable to attend due to a conflict with tribal business. I was not a member of the Task Force for the first 2 years. However, I attended several meetings as an interested observer and provided testimony at a two of the meetings. When the Task Force was re-authorized after the first 2 years, the Area Director appointed me and I served until it completed its mission last August. I served as a tribal technical adviser to the BIA Budget Reform Work Group of the Task Force for a year before my appointment to the Task Force. I continued membership on this Work Group as a Task Force member until it finished its work last fall.

Tribal leaders at the Albuquerque meeting unanimously objected to the way in which this reorganization plan came: without consultation with Tribes! They also objected to the proposed fragmentation of the BIA by moving the Education Department out of the DO and the creation of a separate "Trust Department." tribal representatives also expressed concerns that past BIA reorganization efforts resulted in the escalation of non-productive bureaucrats into important, decisionmaking positions. The most popular term of the day was, "Past reorganization efforts of the BIA were like rotating bald, worn-out tires on a car." Another term used was: "When the BIA reorganizes, only the 'dead wood' floats to the top."

Tribes agreed then and agree now that the BIA needs reorganization. Some BIA management systems and structure are as old as the BIA itself. Many positions service functions that no longer exist. People in key positions within the BIA have lost contact with the people they serve and there appears to be no way to change

that. Civil Service regulations reward complacency and protect non-productive people just because they may have seniority over a more productive person. Even at a time when information is instantaneously available from one site by another, funding and decisions of funding to tribes are bogged down in a quagmire of bureaucratic confusion. Laws requiring timely notification tribes on important BIA budget information are ignored by the BIA. Budget requests put forth by the BIA do not reflect the wishes or needs of the tribes.

Tribal leaders have stated from the beginning that a BIA reorganization plan put for from either the BIA? the DO, or the tribes without involvement of the other would create more problems than it solved. We know that we are all in this together. After the meeting in Albuquerque, tribal representatives met with members and committees of Congress and BIA/DO official. They suggested that a BIA Reorganization Task Force be set up comprising of representatives from the BIA, DO, Congress, and tribes. This resulted in a task force comprising of members from tribes, the BIA and the DO.

Tribal representatives also knew that our decisions would not always be appealing to the BIA. We knew from experience that if you ask an agency like the BIA to do things other than the way they want to it, you'll face resistance. Resistance from Bureau officials came in many forms: negative debate, not providing information, not providing accurate or full information in a timely manner, not following up on recommendations, misinterpretation of Federal rules and regulations, and as new reorganization plans put together by the BIA/DO without tribal participation or involvement. Not-with-standing, we continued the partnership for 4 years and came up with reasonable recommendations.

The government-to-government relationship between the individual tribes and the United States must be protected and strengthened through proper consultation on key issues that impact them. Tribal representatives on the Task Force made it very clear from the very beginning that three representatives from each of the 12 Area Office jurisdictions do not constitute tribal consultation. Tribal consultation on this issue would exist only when all of the plan is discussed at the offices of each tribe. We all know that this is not humanly possible to do within 2 (or even 4) years. The task force, throughout its 3½ years of existence, attempted to have its meetings at diverse locations throughout Indian Country to give most tribes an opportunity to attend its meetings.

The opportunity for tribes to participate in the reorganization process was greatly increased by holding the various meetings close to their tribal headquarters. Many tribal leaders and tribal members did attend the meetings and many testified at the times set aside on each agenda for hearing testimony. Witnesses either spoke on the business of the day or on the reorganization plan and the reorganization planning process. We were better able to understand how they felt on many very important reorganization issues. Their testimony did make a difference in our final product. That is why tribal consultation is important. Tribes, more than anyone else, know what is best for them. They also know better than anyone what policies would be bad for them.

Two glaring weaknesses in the entire reorganization process are: 1) the inconsistent way in which consultation was done in each of the 12 Area Offices, and 2) the absence of followup on the part of the BIA on the recommendations of the Task Force relative to tribal consultation.

The Portland Area took every opportunity available to them to consult with tribes in their Area on, not only the national BIA reorganization, but on its own plans to reorganize. They appeared to take the reorganization effort seriously. They held special meetings on this issue; they attended meetings of the Affiliated Tribes of the Northwest Indians; they answered questions on this issue at meetings on other BIA issues; and went over these plans during Portland Area Budget meetings while also discussing the proposed BIA Budget Reform.

The Juneau Area held no special meetings on this issue. There seemed to be an attitude that "if we can't afford to consult with each and every tribe on each and every issue, we will consult with none." The standard answer to questions as to why consultation was not being carried out was: "there's not enough money available to consult with everybody. If we consult with some and not others, someone will be angry." Information provided at other BIA meetings was incomplete and not enough time was provided to do the job justice. In short, consultation just did not happen in our Area.

Tribal representatives on the Task Force recognized this inconsistency and recommended that the BIA use the Portland Area plan and its planning process as a model for Areas to where Area Offices were confused on what they should be doing on this issue. Ada Deer's office did send out a notice to Area Directors advising them

of this decision. Even after this notice, very little happened to increase consultation with tribes in the Juneau Area.

Approximately 3 years ago, the BIA Juneau Area Director put forth a reorganization plan to downsize his office. It took just about 2 years to get the Assistant Secretary to approve this plan. Once the plan was approved, \$350,000 of savings from this plan was turned back to the U.S. Treasury. During this same period in time, tribal contractors for BIA programs were granted only 80 percent of the indirect costs authorized by DO Inspector General audits. This plan was not only done in complete isolation of tribal input; the \$350,000 should have gone to the tribes for much needed programs or to cover the short-fall in their indirect costs. Both of these results are completely contrary to the key principles identified in the final recommendations of the BIA Reorganization plan put forth by the Task Force.

In conclusion, Mr. Chairman, I am in agreement with your suggestion in S. 814, with some minor suggestions:

The final report of the Joint Tribal/BIA/DO Task Force should be the basic document from which the reorganization of the BIA should begin. The plan put forth in this report has had the most exposure to tribal leadership and I believe that there are options available in the plan so that minor changes can be made without totally changing the intent of its key principles.

Functions and dollars supporting these functions must be transferred from Central and Area Offices to the Tribe/Agency level.

The BIA must consult with tribes in Alaska on any of its plans to reorganize and/or downsize. This could happen by having a consultation meeting in each of the 12 non-profit areas or, at a minimum, one meeting in each of the five BIA Agency jurisdictions. Tribes would attend at their own discretion and at their own expense.

Civil Service regulations must be waived to make it possible to retain people in the BIA who are productive and serve a useful purpose in the movement of programs from BIA administration to tribal administration. Congress must make it clear that BIA employees who use tactics that under-mine tribal efforts should be terminated.

Congress must make it clear that the BIA Manual is not a legally binding document since it has not gone through the proper "rulemaking" process. This manual contains directives that go beyond the intent of the Public Laws it is attempting to clarify. [NOTE: This comment is based upon what I heard from lawyers, this manual has not been made available to my tribe.]

Thank you very much for the opportunity to share my views with you on this topic and your kind attention to my testimony. It is my hopes that your efforts will result in a closer working relationship between tribes and the administration in the creation of a reorganized BIA that is more responsive to the needs of tribes and their citizens. With increased efforts of Congress to cut out waste in Government, S. 814, with some amendments, is very much needed.

PREPARED STATEMENT OF MYRON NANENG, PRESIDENT, ASSOCIATION OF VILLAGE COUNCIL PRESIDENTS, BETHEL, AK

The history of the BIA and its administration in the past has left a lot to be desired. Today, a new approach of compacting and Self-Governance gives the opportunity for American Indians and Alaska Natives to provide services along with the assistance of BIA, and have substantially improved program delivery for the benefit of the people it was set up to serve.

Currently, some BIA programs are not all available to Alaska Natives. For instance, law enforcement and limited tribal court authority does not extend to us.

The State of Alaska, under Public Law 280, has failed miserably in addressing issues that impact villages. As part of the BIA reorganization, local tribal governments need to be recognized by the State so that they can address local issues and concerns. The report by the Alaska Natives Commission may have brought this up as an issue to address.

Let us give an opportunity to the villages by empowering them to deal with some judicial issues that can be addressed locally.

There are funds from BIA that are currently being extended to non-tribal entities. There seems to be two standards that are being set up for BIA funding. One; for programs to be delivered for villages on a regional basis, we need resolutions from villages to be able to provide the services.

Two, the standard for some funds funneled through BIA do not need the required resolution that applies to the regional entities.

The Bethel BIA agency was recently closed as either the result of reorganization or budget cuts that were anticipated. The BIA services have been relocated to Anchorage. Further, we have heard of the possible relocation of the Juneau Area office to Portland or some other location. With 200 plus tribes in Alaska we will lose our ability to work with the BIA on issues that impact our villages and Alaska.

Funding per capita at the Portland office does not justify relocating the Juneau Area Office to another location. Most importantly, the knowledge of issues and concerns of Alaska will end up being ignored by relocation of the Area Office under the reorganization plan.

Thank you for allowing me this opportunity to address this important matter.

PREPARED STATEMENT OF GENE PELTOLA, PRESIDENT, YUKON-KUSKOKWIM HEALTH CORPORATION

My name is Gene Peltola. I am the president of the Yukon-Kuskokwim Health Corporation, a Tribal Consortium authorized by resolution of the tribal councils of the 58 federally recognized tribes in Southwestern Alaska. On behalf of the people of the Yukon-Kuskokwim Delta and the Board of Directors of YKHC, I want to thank you for scheduling this hearing in Alaska. Although we are far from Washington DC we are affected immediately by changes in policy direction of Federal agencies and the Congress.

The Yukon-Kuskokwim Health Corporation was incorporated in July 1969. The mission of YKHC is to achieve the greatest possible improvement in the health status of the people of the Yukon-Kuskokwim Delta Region of Alaska. We are committed to the development of culturally relevant programs for primary care, prevention and health promotion in settings that foster native self-determination in the control and management of health care delivery. The Board and staff have pursued these goals through the foresight, efforts, and commitment of the people of the Delta and by fully exercising the rights provided under the Indian Self-Determination and Education Assistance Act, first to contract under title I and later to enter into a self-governance compact under the title III demonstration project.

YKHC began its journey with four small health programs. Today, we operate the Yukon-Kuskokwim Delta Regional Hospital and more than 30 State and federally funded health service programs. We are the largest employer in the Delta region with more than 700 employees and an annual budget of more than \$50 million. In the past year, as a result of our efficient management of scarce health care resources and our commitment to service at the community level, we opened the Clara M. Morgan Subregional Clinic in Aniak. Our long term plans induce other subregional clinics to bring health services closer to the homes of our people. Such plans are dependent, however, on the Federal Government keeping its commitments to the Alaska Native and American Indian people.

YKHC and the people it represents and serves are appreciative of the efforts made by the Indian Health Service in Alaska on behalf of improving the health status of Alaska Native people. We have always known, though, and have proven, that such efforts are even more successful when carried out by Alaska Native people on their own behalf. YKHC and the other village and regional native health providers are committed to the effort to turn all Federal health care programs for the benefit of Alaska Natives over to tribal control. We have worked intensively with the Alaska Area Native Health Service to redesign the Area Office as it distributes tribal shares to the 195 tribes compacting through 13 individual tribes and regional tribal consortia. This redesign is preliminary to contracting the remaining Area functions to a statewide tribal consortium. Nowhere in the country have such a large number of tribes come together to collaborate to ensure the best, and most efficient, health care delivery system for their own people. This effort requires that the savings achieved remain in our Area and that national redesign efforts, occurring simultaneously, respect the work we are already doing in Alaska. The national redesign activity must not be allowed to derail the work going on—here and now—in Alaska.

IHS support for the government-to-government compacts must be sustained and renewed, as well. The IHS must redouble its efforts to improve day-to-day administration of the Annual Funding Agreements entered into under the Alaska Tribal Health Compact and other compacts throughout the country. We at YKHC are trying to help with that effort. We have agreed to make available for a 60-day period one of our vice presidents, Lee Olson, who is an extremely experienced and talented finance manager, to work in the Office of Tribal Activity to try to improve the systems for tracking and managing transactions and amendments under Annual Funding Agreements. Although the 1995 fiscal year has ended, virtually no Annual Funding Agreement amendments have been formally approved, and payments were de-

layed for months, some arriving only days before the end of the fiscal year. Delays in payments of tribal shares do not just affect our administration. At YKHC those funds support direct health care programs, which cannot be offered when funds are not made available. Your continued endorsement of the goals of self-governance and direction to the Indian Health Service to fully implement self-governance is critical to the seriousness with which the IHS approaches resolving these concerns.

For more than a decade now, the IHS budget has been supplemented by Medicaid and Medicare receipts. Although legislation made clear that no offsets were to be made, in fact, we all understand that the appropriations for IHS did not grow as much as they would have to have, but for the receipts generated by Medicare and Medicaid billings from IHS facilities. With reform of both Medicare and Medicaid racing through the Congress, we are alarmed to note that no provision has been added to either the House or Senate proposal that would create a separate allotment from which State claims for Medicaid payments to IHS programs would be paid. To require the States to reimburse the IHS and tribal health programs from their allocations, even if the capped amount includes its present IHS claims, is to invite renewed conflict between tribes and the States and transfers the fundamental responsibility of the Federal Government for the provision of health care to American Indians and Alaska Natives to the States. Such an outcome must be avoided.

We understand the pressure on the Congress to control costs, but it cannot be achieved at the expense of health programs for Alaska Natives and American Indians. We urge amendment to the Senate proposed Medicaid reform language to create a separate allotment for Indian Health Services programs, as defined in the present Senate language, to be administered by the Health Care Financing Administration for the reimbursement of Medicaid claims made by the States for payments made to Indian Health Service programs. Administratively, this poses no problems since it replicates nearly precisely that which currently occurs. We understand that this separate allotment cannot be uncapped, although it would certainly be fair if it were since IHS programs have been billing Medicaid for much less than half the existence of the program and IHS beneficiaries are many times more likely to be living in poverty than other Americans. There are many ways that a cap could be constructed, however.

We appreciate the fact that from the Senate's point of view, the more serious problem is the source of funds. We believe there are many. One is the savings being achieved by Medicaid and Medicare reform; a second is the Health Care Financing Administration Management Fund; and a third would be to use a small percentage of the funds being set aside for grants to the States for primary and preventive health care services under Senator Hatch's amendment number 1 for payment of claims from States for payments made to Indian Health programs. One-fifth of one percent of the appropriation for Medicaid for fiscal year 96 would be sufficient to reimburse the States for all payments made to Indian Health programs. Using such a formula as that would ensure that the amount for Indian Health programs cannot grow out of proportion to other health care programs, but that the amount should be sufficient to meet the Federal obligation.

We understand that this hearing is intended to focus on IHS redesign. We have addressed Medicaid, and hope the committee will initiate action on this subject, because changes in the availability of Medicaid funds to Alaska Native and American Indian health programs could bring about more change to the Indian health care system than any decision that the IHS might make about its organization. No matter how efficient we are we cannot sustain decreases in Medicaid receipts without seriously compromising the care Alaska Natives will receive.

Once again, we want to thank you for coming to Alaska and holding hearings here. We wish your trip afforded you the time to visit our region. Nowhere else can you really appreciate the challenges that face the Alaska Native health care delivery system. We hope you will be able to make another trip soon to see our hospital and to visit the villages that rely on it. We would be honored to host a visit of the committee members.

PREPARED STATEMENT OF DANIEL ALEX

Chairman McCain and other members of the committee, my name is Daniel Alex. I speak to you as a private citizen today and the views I present are my own. In 1983-84, I was a commissioner of the Presidential Commission on Indian Reservation Economies. I was appointed to the Commission by President Reagan.

We studied the Indian Economic situation across the country with many field hearings and much input by our Native people and wrote a report to the President about our findings and conclusions.

One of our recommendations was to reorganize the Bureau of Indian Affairs [BIA], because we concluded that the BIA was consuming most of its appropriations in its own operation and that little of the money appropriated, trickled down to the tribes. Our recommendation was that the BIA become a block granting agency and get out of the business of managing tribes.

While I reference some of our conclusions, I want to make sure that the whole recommendation of the Presidential Commission be looked at by the committee. I believe that the BIA can make available a copy of the report to the committee. The BIA was not too happy with our commission because they new what we were recommending. They were one of the agencies that were required to work with us.

I have been involved in working to protect our people for a long time. I started in 1970 with my attendance at hearings on the Alaska Native Claims Settlement Act of 1971 [ANCSA] in the Congress. I was a Geophysicist for the U.S. Naval Oceanographic Office at the time. My office was in Washington, DC and I took time off to attend the hearings.

I came back to Alaska in 1973 to work for my village. I worked for the village from 1973 to 1984 and 1988-89. During that time I worked on amendments to the 1971 ANCSA law to refine the law to make it work better. I was the president of the Alaska Native Land Managers Association from 1975 to 1986. We worked on the issues of land management problems and problems with the law as written. I led off the oversight hearing in the House of Representatives, in 1977 as the initial spokesperson for Alaska Natives. With the winning of a major lawsuit and with the help of Congress, we were able to make refinements to the law and they were included in the Alaska National Interest Lands Act of 1980. I continue to this day and on into the future to work to protect our people as a private citizen.

I am concerned that the reasons for the hearings has a lot to do with funding of the BIA and the Indian Health Service. The United States of America has been looking out for the welfare of our people better in more recent years. That has not always been the case. We are the survivors of our own holocaust, a holocaust brought by new diseases that the white man brought to this country and by the practice of the Government treating our people like lower level humans. Many of our native people died from the treatment that they got at the hands of our government.

In my mother's village of Susitna, most all members of the tribe were wiped out as a result of epidemics that were caused by diseases brought by the white man. That was the case across all of Alaska in the late 1800's and early 1900's. A school was built in Eklutna for the housing and education of the many orphans that came about because of the epidemics across Alaska.

The Alaska Native Medical Center [ANMC] was built because it was known that many of our people needed medical care. A lot of that was related to tuberculosis. The reason that I am here to testify today, is that I received life saving care at the ANMC. I am sure that this is the case for many more of our people. Any changes funding that occur should be mindful of the fact that we lost a country and many of our sisters and brothers.

When the reorganizations occur, the Congress should write into the law, that whoever is responsible for the implementation of the health care, cannot discriminate among Native Americans because of any of their beliefs or where they are from.

I am a member of the Alaska State Advisory Commission, U.S. Commission on Civil Rights. We recently had a meeting of the Commission and I was surprised that the Alaska State Human Rights Commission does not investigate discrimination in Native Corporation. While the corporations have a right of Native preference, they are not prohibited from discriminating among Natives. In other words, Natives who do not follow the dictates of some of the leaders, will be blacklisted, even though, the issues are they support are in the rightful interests of Alaska Natives.

As a Presidential Commission, we recommended that the BIA, become a block granting agency. In field hearings, we were made aware of some of the projects of the BIA in a couple of places in the country. In one instance, there was a feasibility study that showed that a hotel with five rooms would be financially feasible, a hotel with many rooms was made. It failed because it had too many rooms. In another instance, the BIA funded a boat storage facility. We were told that the only boats that could be stored there were large canoes. Again the result was failure.

I believe that a reorganization of the BIA is necessary but that care must be given in the way it is done. To maximize the positive effect of the funding for our Native Americans and to minimize the negative impact of reorganization.

I am not sure of the direction that will be taken in handling the Indian health service, but again care must be given in the way it is done. I know that some of our native people want to handle the health care and that is fine but the entity that is responsible for that care must not be related directly or indirectly to any of the

regional for profit corporations. The reason being is that the entity must take care of the health needs of our people without regard to where they are from and to be free from political influence of the leaders of the for profit entities.

One of the items I wrote about earlier is a clause that natives cannot discriminate against other natives for their beliefs. I believe that this matter be written into law.

I expect that the committee will do its job well and our native people will thrive. I am available to answer questions. Thank you.



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October 6, 1995

OVERSIGHT HEARING OF THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
Anchorage, Alaska

Testimony of
Loretta M. Bullard, President
Kawerak Incorporated

Good afternoon, Senators. Thank you for this opportunity to testify. My name is Loretta Bullard, I'm President of Kawerak Incorporated. Kawerak is the regional Native non-profit corporation authorized by the Bering Straits Region's twenty federally recognized Indian Reorganization Act and Traditional Tribal Governing bodies to provide services to their memberships.

We provide services throughout the Bering Straits Region, an area of approximately 26,000 square miles. There are about 7,000 tribal members residing in the Bering Straits Region out of a total population of about 9,000 people.

In January of 1995, the Kawerak Board and key staff participated in a vision retreat to help define Kawerak's role for the future. After three days of very intense discussion, the Board and staff of Kawerak unanimously adopted the following vision statement for Kawerak:

"Building on the Inherent Strength of our Cultural Values, We Shall Empower our Tribes to take Control of Their Future"

The language and policy positions contained in Senate Bill 814 are consistent with the Kawerak Vision and also the United States policy regarding Self Determination for Native Americans. We at Kawerak have been grappling with our role as a regional non-profit even as this proposed bill directs BIA to - under the direction of tribes - redefine their relationship with Alaska Native and American Indian tribes.

I have reviewed Senate Bill 814 and would like to offer the following general comments. There are a number of excellent provisions in this bill which, if implemented, would help make BIA more responsive to those it serves.

I agree with the intent of Title I of the bill - my concern is timing. Unfortunately, rather than reorganizing the BIA in an orderly process as outlined in the draft bill, the appropriation committees of Congress are reorganizing the Bureau of Indian Affairs Central, Area and Agency Offices through the FY 1996 budget process. It's happening quickly, over the objections of Native Americans nation-wide. I'm concerned that by the time Senate Bill 814 gets enacted, there won't be much of a BIA left to reorganize! With all due respect to the members of the appropriations committees, I don't see reorganization through appropriation resulting in improved service delivery or benefit to tribes.

A related comment on the budget process - I'm concerned with the language in the Senate Interior Appropriations Bill which would have moved trust services and dollars out of the Bureau of Indian Affairs to the Special Trustee for American Indians within the Office of the Secretary. I understand a bill passed Congress last session which mandated this move. Because there is a move to segregate trust dollars, this may result in those dollars becoming inaccessible to tribes. We've used these resources to provide Realty and other trust services to tribal members within the Bering Straits Region for the past 9 years.

I'm also concerned that the individuals RIF-ed in the BIA because they have not been able to responsibly manage trust resources there, will get first consideration for positions within the Office of the Special Trustee for American Indians. Basically, the problem will just be moved to a new location. We're concerned with the title of the Special Trustee for American Indians. I recommend "and Alaska Natives" be added to the title of this office.

Senate Bill 814: 1) directs Agency and Area to negotiate with tribes a share of dollars and a reorganization plan; 2) allows the tribes to vote on the reorganization plan; and 3) states that if a majority of the tribes fail to vote in support of the proposed plan, then tribes can still opt to take their tribal shares. However, in the section regarding Central Office, the plan which Tribes can approve only allocates excess funds and not tribal shares.

We recommend the bill language be changed to make no distinction between allocating Central Office versus Agency and Area funds. The tribes want to negotiate a plan to take a fair tribal share of Central Office and not just take excess federal funds. In today's budget environment, there

are no excess federal funds. Reorganization needs to occur at all levels, including Central Office.

Under this bill, after tribes vote on the Agency and Area reorganization plan and the plan is approved, then BIA and the Tribes will enter into a reorganization compact. If the plan is denied, then tribes can still accept their tribal share.

The question is - how does this bill correspond to compacting under the Self - Determination Act? If tribes take their share under the plan or opt out of the plan, and still take their tribal share, there is no need to negotiate under the Self Determination Act. There is no requirement to be a mature contractor. It's not clear under this act what the requirements are for tribes to take their tribal share or what BIA's responsibility to those tribes will be.

I recommend that the bill be amended to allow tribal consortiums when duly authorized by resolution on behalf of federally recognized tribes: 1) to negotiate for implementing a plan; 2) to vote on the plan for reorganization; and 3) to accept a tribal share of Bureau funding.

Titles II and III of the Act are laudable. In this time of federal budget cuts, it's absolutely critical that tribes participate more fully in the BIA budget process. As illustrated by Congress, budgets dictate structure - regardless of what the organizational chart reflects.

Section 502 of Title II, would help to address the fund distribution inequities among BIA area offices. The amounts allocated to area offices appear to be more a reflection of historical allocations and the political savvy of individual tribes versus having anything to do with need. Funding inequity must be addressed within the BIA budget process.

Title III, section 301 of the Act which calls for a major overhaul of the Bureau of Indian Affairs Manual is long overdue. Not because the tribes and tribal contractors have to comply with the BIA Manual - but because BIA itself is constrained from creatively responding to problems. There's always room for improvement in how the federal government does business. Because we're Compacting, the only department at Kaverak which complies with the BIA Manual is our Realty Department.

Moving on to the reorganization process itself, earlier this year, in anticipation of Congressional budget cuts, Juneau Area Office held a meeting to solicit tribal input on how the Juneau Area Office should be reorganized. At that meeting, I encouraged those present to explore Tribal Compacting of federal programs as an effective means to: 1)

cut the federal budget; 2) reduce the federal bureaucracy; 3) improve service delivery and accountability at the local level.

Kawerak has been compacting to provide BIA services in the Bering Straits Region since 1991. Because of our compact, we have been able to access additional resources, programs and dollars, redesign old programs, create new programs, request waivers for those regulations which inhibit our ability to provide services, negotiate our funding levels in advance of each fiscal year, and receive our funding at the beginning of each fiscal year. In the past, Kawerak was restricted to spending BIA funding for programs developed by BIA staff per regulations and guidelines developed by BIA. Their focus was expediency while our focus has been addressing needs of tribal members throughout the region. We have opted out of working with Area and Agency offices to the extent we wish to. We filed reports twice a year with Congress and file a once a year audit. We've done all of this by working with the Office of Self Governance in Washington DC and the Northwest Field Office.

The Office of Self Governance (OSG) has seven positions, only five of which have been consistently filled during the past year. With five staff, they have been able to move 130 million dollars out of the BIA infrastructure to under the direct control of 30 tribal councils and consortiums throughout the nation with a minimum amount of money being spent to provide federal oversight. The funding goes directly from OSG in Washington, DC to the Tribe, as intended by Congress, bypassing the BIA budget system entirely, except to the extent that OSG pulls the money from BIA to start with. The tribes or board of a tribal consortium (as is the case with Kawerak) at the local or regional level decides how the funding should be spent. What's amazing is that five (now six) individuals have been able to responsibly manage this level of federal resources. Six individuals are providing oversight to an amount of funding which equates to two and a half times the amount of BIA funding coming into Alaska. I can not even begin to estimate the savings to the federal government if BIA had reorganized concurrent with compacting.

For those tribes and tribal consortiums which have proven their capacity to responsibly manage federal funds, self determination should become the norm. BIA's role should then be to concentrate on working with those tribes who either chose to have BIA provide services to their membership or are incapable of providing services. BIA's role in each case should be decided by the Tribes, that of service provider or technical assistance provider.

I would encourage this committee to provide for the BIA, the same budgeting and program design flexibility that is

available to compacting tribes. In the BIA system, once a HIP dollar always a HIP dollar. BIA itself needs to be relieved of the incredible burden of regulatory constraints imposed on them, so they can be more responsive to tribal member needs.

Senate Bill 814 reflects a heightened awareness of the need for Self Governance within the Bureau of Indian Affairs. I encourage this committee to take this process one step further and closely review the success of BIA compacting as a model for reorganization of the tribal/federal relationship in other branches of the federal government.

There are a number of reasons why BIA compacting was successful, which I strongly feel needs to be replicated in compacting for non-BIA departments and bureaus.

On the Tribal side we've been successful in BIA compacting for a number of reasons:

- We have positive, pro-active, IRA & Traditional councils and Council Presidents that are willing to work together for the common good. This is the traditional and historical approach our people took in the past and continue today;
- While we are linguistically and culturally diverse in the Bering Straits Region, we're able to work together. Personally, I believe it's because our culture emphasizes sharing and minimizing conflict. Collectively, we've done a good job identifying and implementing local solutions to problems;
- Kaverak organizationally has a close working relationship with it's IRA/Traditional Councils. The President of each federally recognized council represents their community on the Kaverak Board, so we are a tribal driven regional non-profit. By having the President of each council sit on the Board, we make sure the councils are kept informed and involved in regional decision making and how compact funds are spent;
- Using resources available to us through compacting, we've been able to hire qualified Alaska Natives and region residents - people from the region who truly care and want to address the conditions in rural Alaska.

Self determination is a policy placing the resources in the hands of people who know what problems exist, who truly want to see the issues addressed, and provides local people with the ability to make positive improvements.

On the federal side we've been successful in BIA compacting because:

The Secretary, Assistant Secretary for Indian Affairs and the BIA Area Director provided the firm policy level direction, support and information necessary to make compacting happen;

The Office of Self Governance was given the authority to oversee the negotiation process and make compacting happen.

We would like to see the same level of success and efficiency of effort replicated for non-BIA programs and functions that we've been able to achieve on the BIA side. It is absolutely critical that the negotiating and oversight process for non-BIA programs be structured to facilitate success. Congress appears to be intent on reducing the budget and streamlining government. Collaboration and working relationships between non-BIA and tribal governments must be taken into account.

I would like to express our appreciation to this committee for their role in drafting and passing the amendments to Public Law 93-638 which authorized a permanent Tribal Self Governance Program. It's a big step forward on the path to self determination.

For the past six months or so, I've been serving as a member on the Tribal Self Governance Negotiated Rule-making Committee, representing the interests of compacting tribes and tribal consortiums in Alaska - which are interested in compacting for BIA and non-BIA functions. This committee has tribal and federal representatives. Through this process, we are attempting to negotiate the regulations which will provide the regulatory structure to compact for BIA and non-BIA functions within the Department of Interior (DOI).

Concurrently, Kawerak has been attempting to negotiate an annual funding agreement (in the absence of regulations) with National Park Service (NPS) for functions and activities associated with the Bering Land Bridge National Preserve and with the Bureau of Land Management, to assess the impact of reindeer grazing on state lands.

There are some critical elements missing from the process which are making compacting for non-BIA functions extremely difficult.

First and foremost is the element of trust. This is not something that can be legislated, but if given the opportunity to get our foot in the door, we will earn trust over time. With BIA, at least you get a sense that they know who you are. Most non-BIA DOI bureaus have not

interacted much with Tribes and Tribal Organizations. They don't know us, they don't want us as partners, nor do they trust us to do a good job. Frankly, I think many non-BIA individuals within the Department of Interior responsible for implementing this law, resent being directed to work with tribes and tribal organizations. This is something which will need to be developed.

DOI is interpreting negotiations for non-BIA, non-Indian functions as being purely discretionary on the part of the non-BIA bureaus. Congress needs to clarify either through report language or a new act that this is not discretionary. The non-BIA agencies have taken the position that tribes will negotiate with officials at the local level. As an example, our BIA compact was signed off by the Assistant Secretary. For our NPS annual funding agreement (AFA), NPS has taken the position that we need to negotiate with the local superintendent and that a contracting officer will sign off on the agreement. NPS has taken the position that tribal organizations such as Kawerak are commercial contractors.

Rather than creating one office within the Department of the Interior which would oversee and provide direction and support to all DOI/tribal negotiations, each bureau within the DOI is appointing individuals within each bureau to oversee the process. For the most part, these individuals have little knowledge of Indian Law, no experience with tribal organizations, and no experience with compacting. Compacting is not business as usual and we shouldn't be designing the relationship between tribes and the federal government to accommodate the nay-saying attitude of federal employees who are resistant to change.

I'm concerned that by creating all these little mini offices of Self Governance, DOI has lost the economy of effort possible through this process. Certainly, it will be extremely difficult to achieve consistent policy decisions when tribes are placed in the position of working with every bureau independently.

Rather than negotiating with a policy level individual who has the authority to make things happen bureau wide and bureau down, we're having to negotiate our way up the chain of command. It is inconsistent in a government to government relationship, that our ability to enter into an annual funding agreement (on behalf of our IRA & Traditional Councils) rests on the "discretion" of individuals who have a vested interest in not seeing funds compacted.

I encourage this committee to establish direction whereby one Office of Self Governance is created within the Office of the Secretary. When compacting extends to other federal

agencies - the Office of Self Governance should be elevated to within the Office of the President.

During our efforts to compact BIA, an individual was appointed to oversee the process who had the authority and initiative to make it happen. This has not happened in the non-BIA Programs. It's critical that this occur.

In summary, Kawerak recommends: 1) that Senate Bill 814 be clarified as to how it will mesh with compacting under the Self Determination Act; 2) that reorganization occur within Central Office and that Central Office be treated in the same manner as Agency and Area; 3) that Self Determination and reorganization be legislated for all Bureaus; and that 4) the Office of Self Governance be elevated to carry out an expanded role within the Department of the Interior.

Senator Inouye, in a housing meeting in Hawaii stated "that there is an awakening happening in the American people, a realization that most Americans know very little about the past treatment of Native people and a realization of why it's so important to restore independence to tribes." Senator McCain, during passage of the Self Determination Act you predicted "that there would be a day when every Indian tribe in America would govern itself." Senate Bill 814 reflects your commitment to Native Americans.

On behalf of Kawerak Incorporated and those people we serve, I would like to extend a thank you to Senator McCain, co-sponsor Senator Inouye and members of this committee for your commitment to develop a progressive self determination policy.

I would also like to express our appreciation to our Alaska Congressional delegation, Senator Stevens, Senator Murkowski and Congressman Don Young. Those of us in Alaska know how hard you've been working on our behalf in Congress and I would like to express our appreciation at this time. Quianna and thank you for this opportunity to testify.

Maniilaq Association

*P.O. Box 256
Kotzebue, Alaska 99752
(907) 442-3311*

October 4, 1995

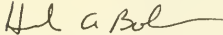
Members of the Indian Senate Committee:

Thank you for working with the other Congressional delegates and the various committees and subcommittees for full funding of the Maniilaq Health Center. However, the problem still exists.

The problem began when the Indian Health Service failed to request full funding for twelve months facility operations costs or minimum staffing levels for the Maniilaq Health Center. The Maniilaq Health Center needs an additional 1.3 million dollars to provide minimum staffing levels and fixed operational costs for one year.

We trust that you and your staff will continue to convey this message for full funding for the Maniilaq Health Center and hope that positive results can be attained.

Sincerely,



Joseph A. Ballot
President/CEO

ENC: Board of Directors Resolution 95-10

MEMBER VILLAGES

Ivisaappaat, Nunatchuaq, Ipnatchuaq, Karyaaq, Kivaliniq, Laugvik, Qitkiqtagnik, Nautaaq, Nuurvik, Aknhgaq, Isimaq
Ambler, Buckland, Deering, Kiana, Kotzebue, Kulusuk, Narsarsuaq, Sarsuaq, Upernivik, Umanaq, Umanaq, Umanaq

Maniilaq Association

*P.O. Box 256
Kotzebue, Alaska 99752
(907) 442-3311*

Resolution 95-10

WHEREAS: Federal health services to maintain and improve the health of Alaska Natives are required by the Federal Government's historical and unique legal relationship with and resulting responsibility to the Alaska Native people 25 U.S.C. Sec. 1601(a); and

WHEREAS: Congress has declared that it is the policy of the United States, in fulfillment of its special responsibilities and legal obligations to the Alaska Native people, to meet the national goal of providing the highest possible health status to Alaska Natives and to provide existing Indian Health Services with all resources necessary to effect that policy, 25 U.S.C. Sec. 1602(a); and

WHEREAS: The Native Village of Ambler, the Native Village of Buckland, the Native Village of Deering, the Native Village of Kiana, the Native Village of Kivalina, the Native Village of Kobuk, the Native Village of Kotzebue, the Native Village of Noatak, the Noorvik Native Community, the Native Village of Point Hope, the Native Village of Selawik, and the Native Village of Shungnak have formed and authorized Maniilaq Association pursuant to 25 U.S.C. Sec. 450b(1) for the purpose of providing health care to Alaska Natives and to contract with the Indian Health Service for such purpose; and

WHEREAS: Maniilaq Association is responsible for administration of health care programs, services and activities, in the Northwest Arctic Borough and Point Hope, including operation of the new Maniilaq Health Center, pursuant to the terms of the Alaska Tribal Health Compact and it's Annual Funding Agreement; and

WHEREAS: Indian Health Service did not request full funding, and Congress has not allocated full funding for twelve months facility operations costs or minimum staffing levels at the new Maniilaq Health Center in FY 96; and

WHEREAS: An additional 1.3 million dollars over the current Congressional appropriation level is required to fund fixed facility operating costs and provide minimum staffing levels for one years operation of the Maniilaq Health Center.

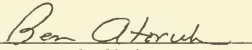
NOW THEREFORE BE IT RESOLVED: That the Indian Health Service and the Secretary of the Department of Health and Human Services provide a budget request to Congress that includes full funding for the new Maniilaq Health Center; and

BE IT FURTHER RESOLVED: That the United States Congress allocate funds to support full funding of the new Maniilaq Health Center.

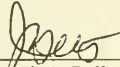
MEMBER VILLAGES

*Ivsaappaat, Nanatchuaq, Ipnatchuaq, Katyaak, Kivaliniq, Laugviik, Qikiqtagnik, Nautaaq, Nuurvik, Akuligaq, Isittuaq
Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak*

Adopted at the Maniilaq Board of Directors meeting held on September 29, 1995, in Kotzebue Alaska.

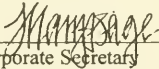


Ben Atoruk, Chairman
Maniilaq Board of Directors



Joseph A. Ballot, President / CEO
Maniilaq Association

Attest:



Corporate Secretary

Date: 9-30-95

Northwest Alaska tribes object to the Tribal Priority Allocation reductions. The negative impacts will be huge and far reaching.

#1. BIA should not take the biggest hit in the cuts. Compared to the other federal agency cuts it is the other federal agencies that have fared well. These cuts should be shared.

#2. Within the BIA, it is the TPA accounts that have taken the biggest hit in the cuts. The spread of the cuts should be fair.

#3. One scenario that we offer is one of our tribes who has a contract under Title 1 of Public Law 93-638 to provide a service. The tribe hired one person to work 4 hours a day under the FY'95 funding level. With the proposed 33% funding cut, this person is expecting to work 1 to 1.5 hours a day providing that same service. This type of impact will be common for all NWA tribes.

#3. The NWA tribes do not have "Indian Gaming" to replace the dollars lost through the TPA reductions.

#4. The NWA tribes' position on gambling is for "no gambling" because of the degradation it brings: families (children) can go hungry because parents could be gambling their money away; children could be unsupervised while parents are away gambling; the education of the children is put at risk when they do not make it to school or are too tired to stay awake at school; the gambling habit can be learned by these children and puts them at risk; finally the community suffers as a whole.

#5. Welfare reform - Block grant funding to tribes in this legislation is critical to tribal self-determination success. In Alaska, which is true for a lot of other states, the state government does not respect tribal government and has worked tirelessly to declare its the only sovereign government. Tribes have jurisdiction over the health and social needs of its members and must too be included in block grant funding.

We encourage all of the members of congress both in the house and senate to reconsider any funding reduction cuts to the Tribal Priority Allocation system of the Bureau of Indian Affairs and in its reconsideration based on new facts, make a bold move to instead restore or increase the level of TPA funding.



Alaska Native Health Board

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Anchorage, Alaska 99508 FAX: (907) 333-2001

**Testimony of
Anne M. Walker, Executive Director
Alaska Native Health Board**

**Oversight Hearing of the
Senate Committee on Indian Affairs
Anchorage, Alaska
October 6, 1995**

**"Reorganization of the Bureau of Indian Affairs
and the Indian Health Service"**

ALEUTIAN/PRILOF ISLANDS ASSOCIATION
BRISTOL BAY AREA HEALTH CORPORATION
CHUGACHMIUT
COPPER RIVER NATIVE ASSOCIATION

KODIAK AREA NATIVE ASSOCIATION
MANILAO ASSOCIATION
METLAKATLA INDIAN COMMUNITY
NORTH SLOPE BOROUGH
NORTON SOUND HEALTH CORPORATION

SOUTHCENTRAL FOUNDATION
SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM
TANANA CHIEFS CONFERENCE
YUKON-KUSKOKWIM HEALTH CORPORATION

Chairman McCain and members of the Committee:

Good afternoon. My name is Anne Walker. I am the Executive Director of the Alaska Native Health Board. On behalf of the Alaska Native Health Board I want to express my appreciation for the consideration you have shown in arranging this hearing to allow Alaska Natives to express our concerns about the current state of relations between the United States and the Alaska Native and American Indian people.

Since 1968 the Alaska Native Health Board has advocated for the improvement of the health status of Alaska Natives through increased financial assistance from the federal government and through increased self-determination and self-governance in the management of Alaska Native health services.

The Alaska Native Health Board has a cooperative agreement in effect with the Indian Health Service to ensure that the Alaska Native community is informed concerning developments in health affairs, and to ensure adequate consultation with the Indian Health Service on important issues. In 1994 our organization was selected by Alaska Native tribal health organizations to serve as the vehicle for developing the Alaska Tribal Health Compact, an IHS self-governance agreement that today involves 195 of the 226 federally-recognized tribes in Alaska.

Alaska Native Health Board has consistently supported the fundamental precepts of tribal self-governance, and recognizes that the only true consultation with Alaska tribal governments is on a one-to-one basis with the tribal councils themselves. Our testimony today is not intended to serve as a substitute for such consultation. We encourage the Committee to undertake more efforts to ensure that such direct tribal consultation occur in the future.

Today the Alaska Native people are engaged on many fronts with issues directly affecting our health services and health status. The process of dealing day-to-day with matters ranging from the recognition of Indian Country in Alaska to the restructuring of Medicare and Medicaid to the development of self-governance agreements is in itself stressful and may be "hazardous to our health." Nonetheless my observation is that the Alaska Native leadership is actively and aggressively meeting the challenges and will continue to do so in the coming years.

Testimony of Anne M. Walker
October 6, 1995
Page Two

OVERALL RECOMMENDATIONS CONCERNING RESTRUCTURING OF THE INDIAN HEALTH SERVICE

With respect to the restructuring of federal programs supporting American Indian and Alaska Native health care, Alaska Native Health Board has been participating in re-shaping the Indian Health Service for many years and particularly since Congress requested that the Indian Health Service present a reorganization plan by FY1997. We have several main long-standing overall recommendations:

- (1) Continuation of the federal trust responsibility and a recognition of a government-to-government relationship must be primary.
- (2) The dynamics of decision-making must move from a mode of consultation with tribes to a mode of partnership with tribes.
- (3) The federal government must decentralize its decision-making process to the maximum extent feasible to improve efficiencies and flexibility to meet local needs.
- (4) The role of the central offices of federal Indian program agencies must shift from one of mandating and monitoring to one of providing support to the local programs, whether operated by the government or by tribes and tribal organizations.
- (5) Savings realized by the restructuring or down-sizing of federal agencies must not be returned to the U.S. Treasury, but rather be used to address the tremendous well-documented deficiencies in services for American Indians and Alaska Natives
- (6) The deficiencies in health services for urban Indian programs must be addressed through the appropriation of new funds, not through the reallocation of current funding for tribal health programs.

We are pleased to see that many of these precepts are recognized in the recently released draft report of the Indian Health Design Team, which offers a blueprint for the restructuring of the Indian Health Service. We provided formal written comments to the Indian Health Service last week endorsing the guiding principles outlined in the report and the revised mission and goal statements developed by the Design Team.

Testimony of Anne M. Walker
October 6, 1995
Page Three

THE ALASKA SELF-GOVERNANCE EXPERIENCE

In Alaska we believe that the joint federal/tribal planning process generated by the implementation of the Alaska Tribal Health Compact has given us insights on the federal re-structuring process that have not been afforded to lower-48 tribes, and we feel that lessons from the Alaska experience over the past 15 months can benefit the national re-structuring process.

This process has resulted in a plan for the gradual re-structuring and down-sizing of the Alaska Area Native Health Service over a three-year period, with a phased-in transfer of federal responsibilities to tribal management over that period. This plan has been developed using a formal consensus decision-making process involving all of the stakeholders, including the Area Office staff.

Alaska Native tribes and tribal health organizations have carefully considered which functions which can be decentralized to the regional and local levels and which functions must be retained at the Area level, which we define as "essential statewide health services." These are carefully delineated in a jointly-negotiated Continuing Service Agreement with the Alaska Area Office.

Through a series of large-scale strategic planning forums over the past 18 months, we have determined that there is consensus within the Alaska Native community to maintain the integrity of such critical statewide services as the Alaska Native Medical Center and the core public health functions of the Alaska Area.

Further, there is consensus that these essential statewide health services should ultimately be managed by a statewide Alaska Native consortium agency in future years. We are currently in the middle of deliberating the issues concerning the selection of that organization.

The demonstrative nature of this process has meant that mistakes have been made, misunderstandings have occurred, and feelings have been hurt. Nonetheless, it is our perspective that re-structuring at the local, regional, and Area level is more healthy and likely to succeed than any top-down restructuring initiative. It is our recommendation that the re-structuring of the Indian Health Service will best be served if it is grounded in the kind of tribal "visioning" process we have undertaken in Alaska.

Testimony of Anne M. Walker
October 6, 1995
Page Four

ALASKA-SPECIFIC CONCERNS ABOUT RESTRUCTURING OF THE INDIAN HEALTH SERVICE

One restructuring initiative proposed by the Indian Health Design Team in it's draft report calls for the creation of several Regional Support Centers throughout the country as an intermediary administrative level between the Indian Health Service Headquarters level and the Area Office level. Such Centers would serve to consolidate functions currently provided at several Area Offices and possibly from IHS Headquarters. Such consolidation could be arranged geographically or functionally.

The jury is out on whether this concept will improve efficiencies on a national basis. We are concerned that the addition of a new level of administration may actually complicate the overall IHS system rather than simplify it.

This Regional Support Center concept raises many significant questions when considered from the perspective of the Alaska Area. In August 1995 the Alaska Native Health Board approved a resolution unanimously objecting to any proposal to relocate the Alaska Area Office away from Anchorage.

The Indian Health Service must maintain their accessibility to the 226 federally-recognized tribes in Alaska. We are geographically isolated from the contiguous lower-48 states. The costs of travel and communications between Alaska Native health organizations and an out-of-state Regional Support Center would be prohibitive.

It is our position that the consolidation of any specific operating functions of the Alaska Area Office into a Regional Support Center outside of Alaska would constitute a partial relocation. Our membership feels that the self-governance planning process described earlier constitutes our contribution to the reduction of the federal bureaucracy desired by Congress, and that restructuring should be responsive to tribal concerns at the Area level.

IMPACTS OF LIMITING IHS AND BIA APPROPRIATIONS

All of our planning has been based on an understanding that the Congressional commitment to sustaining the funding levels of the Indian Health Service will continue in future years.

Testimony of Anne M. Walker
 October 6, 1995
 Page Five

The recent reductions in the budgets of the Bureau of Indian Affairs approved by the Congress will clearly impact the ability of that agency, and consequently the ability of tribes and tribal organizations managing BIA services through self-determination and self-governance agreements, to maintain the already inadequate services previously provided.

At the recent Western Summit on Indian Health in Salt Lake City, IHS Director Michael Trujillo observed correctly that reductions in BIA funding will require tribes to lean more heavily on Indian Health Service programs and resources to meet the social service and child protection needs of tribal members. This is cost-shifting and is unfair and unacceptable to the Alaska Native people.

If the BIA budget reductions are a foreshadowing of future Congressional initiatives to reduce the budget of the Indian Health Service, all of the progress made in recent years will be lost and our sense of betrayal by the United States government will be staggering.

Already we observe that the proposed FY1996 Indian Health Service appropriation is essentially at the same level as the FY1995 appropriation. The outlook from the eyes of both IHS and tribal health administrators is foreboding.

*The FY1996 budget does not accommodate mandatory salary and benefit increases for IHS employees. It does not allow tribal health programs to meet the cost of living increases faced by their employees.

*It does not accommodate the 8-10% increase in costs of medical services purchased from the private sector through the contract health services program.

*It does not accommodate the 3% growth rate in IHS beneficiaries that we experience each year.

*It does not accommodate the increased need for contract support costs required to support the growing number of tribal self-determination agreements.

*It does not offer any hope that the promises of the Indian Health Care Improvement Act that new and expanded services will be afforded in the coming years.

Testimony of Anne M. Walker
October 6, 1995
Page Six

The end result of a level appropriations for the Indian Health Service is that, during the new fiscal year which began this week, Indian health programs, both federally and tribally-operated, will lose ground by as much as 10%, even though the budget has not been "cut." Health services available to American Indians and Alaska Natives will be fewer than in the past year.

This reality not only ensures that the lofty goals of the Department of Health and Human Services outlined in the Healthy People 2000 initiative will remain out of reach for American Indian and Alaska Native people, it also threatens to undermine the success of the self-governance initiatives of Congress as well. Why should tribes and tribal organizations assume the liability for providing health services when the federal government gradually reduces the resources necessary to sustain them?

It is not that we should not share in budget reductions to help reduce the federal deficit; however those cuts must not be disproportionate to the rest of the federal agencies.

IMPACTS OF SUPPLEMENTAL HEALTH PROGRAM CHANGES

The problem is compounded when we look beyond the horizons of the Indian Health Service to what is happening with other Health and Human Services programs.

The administration is proposing the development of Performance Partnership Grants which would block grant funds for Centers for Disease Control and Substance Abuse and Mental Health programs to the states and also to tribes. It is unclear at this point whether tribes will benefit from this initiative; it will depend on the extent to which the overall block grant funding levels are reduced and the distribution formulas which are adopted. It also depends on the individual relationships between the states and tribes; in Alaska, state/tribal relationships have historically been strained at best.

More serious is the potential impact of the current Congressional initiatives in restructuring the Medicaid and Medicare programs. Nationally, the Indian Health Service realizes over \$150 million annually from these programs. In Alaska more than 10% of the direct revenues of Alaska Native health providers, nearly \$30 million annually, are from Medicaid and Medicare resources provided through the Indian Health Service.

Testimony of Anne M. Walker
October 6, 1995
Page Seven

Many Alaska Natives benefit as well from participation in the State's Medicaid program in utilizing non-IHS facilities and services. The Alaska Native Medical Center and many of the tribally-operated hospitals and health centers in Alaska depend on Medicaid and Medicare revenues to support as much as one-third of their recurring operating costs.

It is essential that Congressional action on the Medigrant initiative include such provisions as are necessary to ensure that these resources continue to be available to American Indian and Alaska Native people.

Most critical is that a separate allotment, uncapped or capped, be identified from which State claims for MediGrant reimbursement for Medicaid payments to the Indian Health Service or tribal programs would be paid. Under the Federal/State Medicaid partnership all such payments by the states were reimbursed at the 100 percent level by the federal government, in recognition of its responsibility to provide health care to American Indian and Alaska Native people.

Although the 100 percent reimbursement appears to be an element of the Medicaid reform language in both houses, the federal funds are within the state's capped entitlement. This has the effect of reducing funds available to the state for matching its reimbursement to other non-Indian providers and constitutes a direct shift of federal responsibility to the states.

The Alaska Native Health Board advocates for the creation of a separate Indian Health Service allotment from which reimbursement of IHS and tribal program claims would be paid. To be most fair, such an allotment should be uncapped. The IHS and tribal programs have less than a fifteen year history of billing Medicaid, compared with more than 30 years of experience of other providers. Moreover, the percentage of Indian people living below the poverty level is almost four times the national average, thus Medicaid eligibility is substantially higher.

Although the time may come when controls in the form of a total cap on spending would be appropriate, now the limitations of state plans, which take the form of controls on individual eligibility, limiting services and frequency of use, and payment rates, are sufficient cost controls.

Testimony of Anne M. Walker
October 6, 1995
Page Eight

Despite what we know to be fairest, the Tribes in Alaska understand that even their most fervent advocates may not be able to protect them from the efforts of the Congress to control the growth of Medicaid. Such an effort should not be allowed to be used to make the viability of tribal and IHS programs subject entirely to the vagaries of the policy-making of fifty state governors and legislators. If an uncapped allotment for IHS Medicaid is impossible, we urge consideration of a capped allotment.

We propose a formula based on the all-states average growth rate adjusted to represent the proportion of American Indians and Alaska Natives living in poverty compared to all Americans. Such a formula provides for IHS Medicaid growth at a rate that closely approximates the average growth over the past five to ten years. We are prepared to share specific proposals and to work with you and other members of the Congress to refine them as necessary.

CONCLUSION

In summary, the Alaska Native Health Board has had sufficient opportunity to participate in the preliminary work of the Indian Health Design Team and supports the overall direction being taken by the agency. We recommend that the Alaska self-governance process of agency re-design be used as a model for the Indian Health Service as a whole.

We are concerned that the Alaska Area Office not be negatively impacted through the creation of Regional Support Centers within the agency. We are concerned that current and future agency budget reductions will damage the success of the re-structuring process we envision. Finally, we are concerned that external forces shaping the overall health system in our nation may result in unplanned impacts for which the IHS/Tribal health system will not be prepared.

The Alaska Native Health Board looks forward to continuing a collaborative effort between the Tribes, the Indian Health Service, and the Congress to ensure the long-term preservation and improvement of our health care delivery system.

TESTIMONY
OF
WILL MAYO, PRESIDENT
TANANA CHIEFS CONFERENCE, INC.

BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
RE: BIA and IHS RESTRUCTURE

October 6, 1995
Anchorage, Alaska

OPENING

Senators, I would like to thank you for providing Tanana Chiefs Conference, Inc. (TCC) with the opportunity to address the Committee on the restructure of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). The subject of restructure is a timely issue facing both tribes and the federal government. Restructuring has the potential to improve services while streamlining costs for all involved.

TCC is a non-profit organization of forty-two (42) tribes and tribal organizations located in Interior Alaska. We compact both BIA and IHS programs on behalf of our member tribes. In our experience with compacting we have witnessed federal agencies struggling with the issue of restructuring. They have been faced with restructure based on Congressional mandates and funding reductions due in part to compacts.

Our main comments and concerns about restructure are:

- ♦ *Compacting has been a success for tribes in Alaska at both the IHS and BIA levels. It has allowed tribes to gain local control over programs and service delivery.*
- ♦ *Restructuring of IHS and BIA in Alaska has begun already and has occurred in concert with tribal wishes. What has developed thus far are delicate arrangements and easily damaged. Allow us to continue our mutual restructure efforts. To impose outside interests would result only in confusion and a regression of the progress we have made so far with BIA and IHS.*
- ♦ *Alaska is unique. The vastness of the service areas; the some 225 tribes served; the 10,000 plus parcels of trust property in the state, all contribute to that uniqueness. Common sense dictates that Alaska be held separate from the national restructure efforts because of those factors. The current restructure of both the IHS and BIA Area Offices should be maintained AND allowed to develop without the threat of consolidation with any office located outside Alaska.*
- ♦ *Move Headquarters funding, together with functions and authority, to the local level, i.e., the tribes. In the simplest terms -- You get funding to us and we will use it.*

RESTRUCTURE COMMENTS

The issue of restructure for federal agencies in Alaska is especially critical given the number of tribes served in Alaska and the other unique factors listed above. There are some 225 tribes in Alaska, the majority of which are located in villages accessible only by air. The most important question to ask when discussing restructure is how to restructure without eroding the quality of service delivery provided to the tribes in remote Alaska? IHS and BIA have, through their restructure efforts to date, addressed that question.

I would like to commend the BIA for their ongoing consultation with Alaska tribes on their restructure. The Area Director, Niles Cesar, has developed an organizational redesign for the state that is in-line with tribal interests. Under the BIA plan all Agency offices would be consolidated into a support center to be located in Anchorage. The Area Office staff would also be part of this consolidation. The support center then would provide training and technical assistance to tribes and direct services to those small number of tribes keeping their programs with BIA.

The Support Center would also have the ability to prioritize service delivery needs, the same as tribes do under compact or contract. One shift we would like to see is the expansion of the BIA subsistence program. This is one of the most critical issues for Alaska tribes. We have worked years on this matter, striving to preserve our subsistence rights. The BIA has played an important part in this and we wish to see their efforts maximized.

There has been talk of combining the BIA Juneau Area Office with another BIA Area Office located Outside. This is not acceptable. We do not believe that Native issues important to Alaska would be meaningfully addressed if the Juneau Area Office is abolished or operations are moved outside the state. Most Outside agency staff would not be fully informed and prepared to undertake the many unique issues of Alaska tribes.

This concern of consolidation of offices also pertains to the IHS and its restructure. We cannot afford to have offices moved outside of Alaska, which would only serve to further isolate access to staff and resources. To reiterate, we strongly recommend that Alaska be held

harmless from national reorganization efforts for both the BIA and IHS. Restructure of agencies in the Lower 48 should be separate from Alaska and no merging of Alaska offices with Outside offices should be permitted. This does not mean that BIA and IHS should be held harmless from overhauling their structure. They too must continue to restructure to meet fiscal and programmatic needs.

Another recommendation I would like to make for your consideration concerns the issue of compacting with non-BIA federal agencies. We have attempted to compact programs from the Fish and Wildlife Service and the Bureau of Land Management. In both instances we have encountered staff unfamiliar with compacting provisions. The BIA currently has on staff several people intricately familiar with the compact process. We would suggest that compacting of any federal agency in Alaska be routed and coordinated through the BIA staff to facilitate a smooth and knowledgeable negotiation process. This would also alleviate agencies from trying to "reinvent the wheel."

Getting back to IHS concerns - we have reviewed the Indian Health Design Team recommendations. We recognize the many hours of discussion and hard work required to develop the recommendations. We agree with many aspects of the Design Team's recommendation including the guiding principles and the new mission and goal statements.

Other areas that we strongly support include the delegation of decision-making authority to the local level, decreases in oversight and report responsibility of IHS Headquarters and Area Offices and the establishment of a self-governance office at the Secretary's office of DHSS. These changes are consistent with our version of establishing a true government-to-government relationship between tribes and the federal government. We also appreciate the flexibility in designing and delivering services using savings gleaned from IHS downsizing efforts.

Our primary concern rests with the recommendations to establish Regional Support Centers or RSCs. The RSCs would basically create another layer of offices to deal with at IHS. Additionally, we cannot support the idea of placing operating functions of the Area Office within a RSC located out of Alaska. We again urge that IHS maintain a presence in Alaska for Alaska tribes alone through their own Area Office located in Anchorage. We have worked well with the IHS Area Office and would like to continue to do so while we work out their form and function.

CLOSING

To summarize our concerns and recommendations:

- ♦ *Leave the restructure efforts of the IHS and BIA in Alaska to those agencies and the tribes. Permit them to mutually develop restructure plans specific to Alaska.*
- ♦ *Consider having the BIA be designated as the in-state compact coordinator for any federal agency (save the IHS).*
- ♦ *Restructure should facilitate the moving of Headquarter resources to the tribal level.*
- ♦ *Hold Alaska harmless from national restructure plans that would require Alaska offices be moved outside of Alaska.*

In closing, I would like to thank you for your time and consideration of our concerns and recommendations. We look forward to an improved structure of service delivery for both the BIA and IHS in Alaska.

AKIACHAK NATIVE COMMUNITY
Akiachak Indian Reorganization Act Council
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COMMENTS
TO THE SENATE INDIAN AFFAIRS COMMITTEE
ON ISSUES OF CONCERN
TO THE ALASKA NATIVES
AND THE FEDERAL INDIAN PROGRAMS

Willie Kasayulie, Chairman and Chief Executive Officer

Good afternoon, first of all I want to express my gratitude and appreciation to Chairman McCain and the members of the Senate Indian Affairs Committee for allowing me to make my comments. Welcome to our great State and our homelands. Congratulations are in order for the attainment of the Chairmanship for the Committee, Senator McCain.

For the record, my name is Willie Kasayulie, Chairman and Chief Executive Officer for the Akiachak Native Community. One of the federally recognized Tribes from the Yukon Kuskokwim Delta.

I need not to remind the Committee that the Tribes in Alaska comprise 41% of the federally recognized Tribes nationally.

Mr. Chairman and the members of the Committee, I thank you for the opportunity to present the views of the Akiachak Native Community. My only wish is that the Committee would be available during the regional Native annual membership meetings to allow Tribes and tribal peoples to express their concerns on federal trust responsibilities and the proposed legislations and regulations.

The present day federally recognized Tribes of Alaska are the continuation of our grandfathers governments from the beginning of time. There are very few of our elders existing today that have witnessed total sovereignty without interference from foreign governments a mere 80 to 90 years ago. Less than a century.

Today the modern day Alaska Tribal government face challenges from the federal, state, municipal, and corporation entities in the exercise of the inherent authority of self-rule founded and practiced long before the first whiteman sets its' foot print in the modern day United States.

I have expressed my views that the Alaska Tribes have not consented to the Alaska Native Land Claims Settlement Act of December 18, 1971, because of the Indian Reorganization Act of 1934 and the subsequent legislation to Alaska on May 1, 1936. ANCSA, in my opinion, is the similar termination law that once was applied to the Minnominee Nation from Wisconsin.

As mentioned, the Akiachak Native Community is a federally recognized tribe with a Constitution and By-Laws consented by the tribal peoples to

become an IRA form of government on August 6th, 1948, eleven years before the Territory of Alaska became a member of the Union as the 50th state.

The Tribe believes all federal laws enacted to federally recognized tribes apply to the Akiachak Native Community. For those reasons, the Tribe contracts Bureau programs thru the Indian Self-Determination Act. We are currently into our second year of administering funds from the Tribal Management grant program of the Indian Health Service.

The Department of the Interior Agency offices of the Bureau of Indian Affairs is divided into twelve areas. The Alaska Natives collectively are third in population of tribal peoples served by the trust responsibility programs of the United States. Funding wise, Alaska is eleventh in program dollars nationally. Congress is now making significant cuts in essential programs to the Alaska Natives and the American Indian.

These inequity of funds can only be corrected by the Congress. The Alaska delegation are in the position of change by chairing and being the senior members in the Committees of Congress that implement the intent of federal Indian laws by the Executive Branch of the United States government. They can make the change.

The Alaska Natives need to participate in the dialog with foreign governments. As Pope John Paul mentioned, the Alaska tribal nations are the members of the global family of nations. That is the reason why it is important for the need to produce illiterate Alaska Native future leaders, more so from rural Alaska.

The current state funded educational school districts need to be examined whether the State of Alaska is fulfilling its' constitutional responsibility of providing quality education to Alaska Natives in rural Alaska. There is a very large gap from the time for those of us that attended BIA funded secondary schools and the village level high school graduates. The federal government abrogated its' trust responsibility of providing federally funded educational systems in 1985 for the Alaska tribes.

In light of shortfalls of the availability of funds from the state and federal governments for essential services, I am of the opinion that a joint funding effort of the constitutional responsibility of the United

States and the State of Alaska can only be justified by allowing the Alaska Native parents and the Alaska Tribal Governments to be involved in the decision making process regarding education of our most important renewable resources, our children.

The Webster's dictionary defines a nation as 1) commonality in language, 2) living in the same country, and 3) share the same cultural identity. There are 226 and two regional federally recognized tribes in Alaska. If we have our heads together, we can establish regional tribes. The precedences are the Inupiat Community of the Arctic Slope and the Central Councils of the Tlingits and Haida Nations.

The Alaska Native Commission, a federally enacted Commission, looked into the socio-economonic stability of todays Alaska Natives and concluded the need for the Alaska Native parent and tribal government involvement on issues of concern to the tribal peoples. The recommendations are basically the same recommendations of the Inuit Circumpolar Conference's Alaska Native Commission that was headed by a retired Canadian Supreme Court Jursit Thomas Burger, who published his findings in the *Village Journey* .

On the issues that have an impact on the ANCSA corporations, the net operating loss incurred by the regional corprations should be shared with the village corporations and the at large shareholders according to law.

I would like to thank Senator Ted Stevens for including the regional non-profit corporations to be eligible to participate in the welfare programs the Republican Congress enacted in the Welfare Reform Act of 1995. I believe the Act needs to go a step further to allow the federally recognized tribes to participate in the Welfare Reform Act on a local level. Despite the participation of the regional non-profits, they would be another level of bureaucracy to deal with to implement the intent of the Act.

The reorganization of the Bureau of Indian Affairs and the Indian Health Service needs the participation and involvement of the Alaska Tribes. Some Alaska Tribes are beginning to contract and compact for services on their own rather than have the regional non-profit corporations provide services on their behalf.

The process used by the DOI/BIA/Tribal Reorganization Task Force needs to be insured. Majority of the federally recognized tribes have already made their comments known on the BIA reorganization under the Reorganization Task Force. The lack of response from the Alaska tribes was a problem. This was due in part by the consultation process used by the Juneau Area Office by consulting with non-profit contractors rather than the affected Tribes.

As with the BIA, the Indian Health Service needs direct participation and involvement of all federally recognized tribes in the reorganization process. The United States Department of the Interior needs to consult with the federally recognized tribes rather than consulting the regional health corporations.

I would urge the Senate Indian Affairs Committee to conduct more hearings in the State of Alaska. The hearings in Alaska would allow more participation of Alaska Tribes. Whenever hearings are held outside of Alaska, the regional non-profit corporations are usually the only ones representing the interests of the tribes. This is because they administer funds on behalf of the Tribe and the rural Tribes don't have enough monetary resources to attend hearings outside of Alaska. The SIAC needs to be aware that not all Tribes are represented by regional non-profit corporations.

I thank you for the time and opportunity to express our views and concerns.

WRITTEN TESTIMONY TO THE SENATE COMMITTEE ON
INDIAN AFFAIRS

OCTOBER 6, 1995

Senate Committee on Indian Affairs
Senator John McCain, Chairman
Senator Daniel Inouye, Minority Leader

Dear Senator McCain:

It has come to my attention that the Senate Indian Affairs Committee will be holding hearings in Anchorage, Alaska on October 6, 1995 on issues related to Indian Health and the reorganization of the BIA. I have contacted your office to be included in the hearings as a witness in behalf of 140 tribal governments, but was informed that the witness list has already been closed. I will therefore present this written testimony with anticipation that this collective tribal position will help you in developing your efforts to support tribal government positions. The Alaska Inter-Tribal Council most certainly appreciate and thank you for all the support you have given to us in the past.

TESTIMONY

Clearly the intent of Congress, when passing P.L.100-472 (Amendments to P.L.93-638 which is the Indian Self-Determination and Education Assistance Act of 1975) was to:

- a). Reaffirm it's policy and commitment for a true "government-to-government" basis with Indian Tribes of America and the federal government by strengthening tribal sovereignty;
- b). to set on a priority basis who within Indian Country is eligible to receive services under the Act. Clearly it is the federally recognized tribes;
- c). to enable the tribes to better practice Self-Determination in the context of Indian Country under the Act.

In the formation of the Indian Self-Determination Act Rulemaking Committee, formed under P.L. 103-413, the Committee was charged with writing preliminary implementing regulations for P.L. 93-638 and it's amendments. It was to provide the tools for the tribes to accomplish what Congress had intended. Clearly, Congress had intended "to remove to the greatest extent possible" that layer of federal bureaucracy between the Federal Government and

Tribal Government. Therefore the Committees's work had failed. The ISDA 638 Rulemaking Committee's product will fail the fundamental test of placing the tribes first. What has occurred and will continue to occur is, the layer of federal bureaucracy is being displaced with another layer of bureaucracy, and generally headed by ex-federal employees and for the most part are non-native.

How did this happen?

The Secretaries (HHS & DOI), in order to fulfill their obligation, under P.L. 103-413, to select tribal representatives to serve on the Negotiated Rulemaking Committee, permitted their departmental staff to make the selection. Hence the Committee was heavily weighted with hired attorneys and paid health administrators. And their AGENDAS are not entirely that same as Tribal Governments.

Reorganization of IHS and BIA

It is these same people and groups, who are members of organizations that are not tribally driven, that want to "speed-up" the reorganization and eventual demise of BIA & IHS for their own self-interest, **thus denying the tribes the practice of self-determination**. Quite often tribes will express their desire for technical assistance so they can begin contracting for themselves and proceed on their way towards self-sufficiency, but to no avail. The majority of tribes in Alaska do not have the capacity to be self-sufficient and request a slow down and reduction of the pace of reorganization. **Our tribes need technical assistance.**

Indian Health

First, the exclusion of direct tribal government participation in the operation and administration of the Alaska Native Medical Center (ANMC) is damaging to the health and welfare of the native people in Alaska. This situation further reduces the tribal governments opportunity to work collectively with the health providers and local tribal members to address the extreme physical and emotional consequences associated with alcohol drugs, chemical, domestic abuse, violence, teen pregnancy, and suicide that occur in disproportionate numbers with the Native population. Therefore, AI-TC requests that tribal interests be included in the health care facility in ANMC. (It has come to my attention that one of the health care organization is traveling statewide denouncing the Alaska Inter-Tribal Council involvement, meaning that tribal

governments should not be involved with their own health care facility.

Natural Resource Management

Tribal governments in Alaska have been systematically excluded from participation in the Alaska Dual State and Federal resource management regime. These tribal governments none-the-less continue to represent the best opportunity to establish meaningful resource dialogue with 226 rural tribal communities where over 90% of the residents are tribal members. In place of the local community participation in resource management, the State and Federal agencies have established advisory committees and council that require no physical management action relative to the resources of importance to the local people. The AI-TC herein reaffirms the right of tribal governments to act as the legal third (3rd) party to the Alaska Co-Management Regime, along with the State and federal Governments. This regime will facilitate the process of working directly with our member tribes to build their local management capacity while providing information and assistance to resource management and jobs for local people. To date over 20 IRA Councils have already established Resource and Environmental Affairs with resource management specialists that conduct TRADITIONAL HARVEST DATA COLLECTION projects and community education and training programs. We have, unfortunately noticed a continued trend by State and Federal officials in usurping the direct authority of the Alaska Tribal governments. In the Marine Mammal Protection Act (MMPA) amendments, funding authority is indentified specifically for "Alaska Native Organizations" and not for "Tribal Governments". This oversight has the potential of being in direct conflict with P.L. 93-638 ISDEAA as amended in 1994. Likewise in S.B.267 Yukon River Salmon Act 1995, there is no mention of a seat or participation for access of 30 local tribal and/or IRA Councils that represent over 90% of all residents in the Yukon River Drainage. In fact the bills language concerning Alaska Natives requires only (1) one Native representative on the "Panel" and (2) two on the "Yukon River Advisory Committee" This equates to 16.6% representation on the panel and 25% representation on the Advisory Committee. Far short of the 90% Native residency for the Yukon River Communittees. Also the appointment process requires no input from tribal councils and does not recognize traditional knowledge of traditional fisherman as being acceptable to be included as panel and committee members. In conclusion, the omission of tribal government recognition in these federal bills is only the tip of the iceberg in comparison to the many bills that pass through congressional committees. We must respectfully request that the

Indian Affairs Committee consistently require the language "Tribal Governments and Native Organizations" in ALL legislation that impacts the tribes of Alaska.

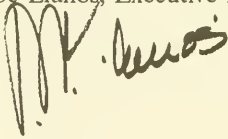
We would be most happy to meet with you to discuss the AI-TC Traditional Resource Management Program and its potential for allowing tribes and members to fully participate in the stewardship of their resources.


Changes required in the Law.

With regards to the Negotiated Rulemaking Committee, for at least 8 to 10 months, has been trying to write the Implementing Regulations to P.L. 93-638 and its amendments. It has been long and arduous for the simple reason that they (the Committee members) have been trying to fabricate wording to fit themselves instead of the tribes. It is the consensus of the tribes that since the law was written and amended for them, then, they (the tribes) should be the prime contractors for the Indian Programs and if the non-tribal entities wish to provide services to the tribes, **THEY MUST BE SUBCONTRACTORS TO THE TRIBES!** Only under these circumstances that Implementing Regulations can be written and have "One Regulation Fit All".

Thank You.

Joe Llanos, Executive Director, Alaska Inter-Tribal Council

A handwritten signature in dark ink, appearing to read "Joe Llanos", is written over the typed name.



Aleutian/Pribilof Islands Association, Inc.

401 E. Firewood Lane, Suite 201
Anchorage, Alaska 99503-2111
Phone (907) 276-2700

October 5, 1995

Senator John McCain, Chairman
Committee on Indian Affairs
Room 111 Russell Building
Washington, D.C. 20510

Re. Bureau of Indian Affairs - Reorganization and Fiscal Year 1996 Funding Reduction

Honorable Senator McCain.

On behalf of the 12 federally recognized Tribes in the Aleutian/Pribilof Islands Region represented by the Aleutian/Pribilof Islands Association, Inc., we wish to express our concern of the percentage level of decreased funding in the Bureau of Indian Affairs FY-96 allocation; and how it compares to the funding reduction percentage level of other Department of the Interior divisions. The 20% to 30% decrease in funding will have a direct impact on the social and economic well-being of the Tribal citizens in the Aleutian/Pribilof Islands Region.

Currently, unemployment among Native Americans in this region is between 40% - 65%. Although the region is rich in natural resources and fishery resources, there is unequitable outside private business influence that retains the economic benefit of the natural resources. Further, the dollars are not seen or circulated within the Tribal communities. Therefore, for the past 15 years, we have attempted to create and develop a community based economic benefit for the Tribes in our service area. If this decrease in program dollars becomes effective now that we are under the Self-Governing Compact (as of Fiscal Year 1996), our efforts will be severely hamper.

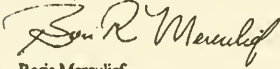
The reduction of funding at the percentage levels the Bureau of Indian Affairs is required to take as compared to the U.S. Park Service and Fish and Wildlife, has a direct adverse impact on our people. Furthermore, we request for the dollars saved in downsizing the Bureau of Indian Affairs to be distributed directly to Tribes.

Senator John McCain
October 5, 1995
Page 2

We are in a distant, lineal, isolated geographic region only accessible by air and boat. It is imperative for the Tribes to become more self-sustained and self-governed in order to reach the standards others in this country take for granted.

In conclusion, we would like to impress that your leadership has always been recognized and appreciated by our Tribes as being one who is willing to speak out for Tribal needs. We ask for you to continue in your role as Chairperson for the Committee on Indian Affairs and to represent Tribes with increased knowledge of our situation at those times there is opportunity to do so. We certainly appreciate this opportunity to speak to you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Boris Mercurief".

Boris Mercurief
Chairman

BM/td

Kenaitze Indian Tribe I.R.A.

P.O. BOX 988
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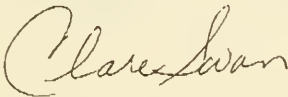
October 6, 1995

Dear Senator McCain;

The following comments are respectfully submitted by the Kenaitze Indian Tribe, IRA regarding the proposed reorganization of the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS).

1. The "Tribes" must not be abandoned. Trust responsibility must be clearly identified and maintained by the government.
2. The "Tribes" must have assurance that they will not be "forced" into a situation that has no recourse.
3. There is absolutely no reason or sense in this re-organization having to be "in progress" for all these years. Further, developing other bureaucracies such as the Office of Tribal Governance to dilute Tribal Self-determination. These new bureaucracies serve only one purpose: they further deplete Tribal Funds.
4. "Tribes" must have assurance that the "reorganization" is NOT termination.

Yours Truly,



Clare Swan
Kenaitze Indian Tribe, IRA
Tribal Chairperson



Kenaitze Indian Tribe I.R.A.

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RESOLUTION 94- 21

"A RESOLUTION IN SUPPORT OF ATTAINING A FAIR FUNDING FORMULA FOR ALL TRIBES"

WHEREAS, THE KENAITZE INDIAN TRIBE,IRA IS A FEDERALLY RECOGNIZED TRIBAL GOVERNMENT PURSUANT TO THE INDIAN REORGANIZATION ACT OF 1934(AS AMENDED FOR ALASKA IN 1936); AND,

WHEREAS, THE KENAITZE INDIAN TRIBE, IRA POSSESSES THE INHERENT RIGHT AND RESPONSIBILITY TO PROVIDE FOR THE HEALTH, EDUCATION AND SOCIAL WELL-BEING OF ITS PEOPLE;AND,

WHEREAS, THE KENAITZE INDIAN TRIBE,IRA HAS SUCCESSFULLY CONTRACTED WITH THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE TO PROVIDE SERVICES FOR ITS PEOPLE FOR OVER 10 YEARS; AND,

NOW THEREFORE BE IT RESOLVED THAT THE KENAITZE TRIBE SUPPORTS A FUNDING FORMULA TO BE USED FOR ALL FEDERAL FUNDS SET ASIDE FOR INDIANS WHICH IS FAIR TO ALL TRIBES;AND,

BE IT RESOLVED THAT WHEN ANY FEDERAL AGENCY ALLOCATES AT LEAST 15 MILLION DOLLARS TO INDIANS, HALF THE TOTAL AMOUNT BE DISTRIBUTED AS AN EQUAL BASE FOR ALL TRIBES, AND HALF BE DISTRIBUTED ACCORDING TO EACH TRIBE'S POPULATION; AND,

BE IT FURTHER RESOLVED THAT WHEN LESS THAN 15 MILLION DOLLARS IS ALLOCATED FOR INDIANS, FUNDS BE DISTRIBUTED EQUALLY TO EACH TRIBE;AND,

BE IT FINALLY RESOLVED, THAT THIS FUNDING FORMULA IS FAIR TO ALL TRIBES.

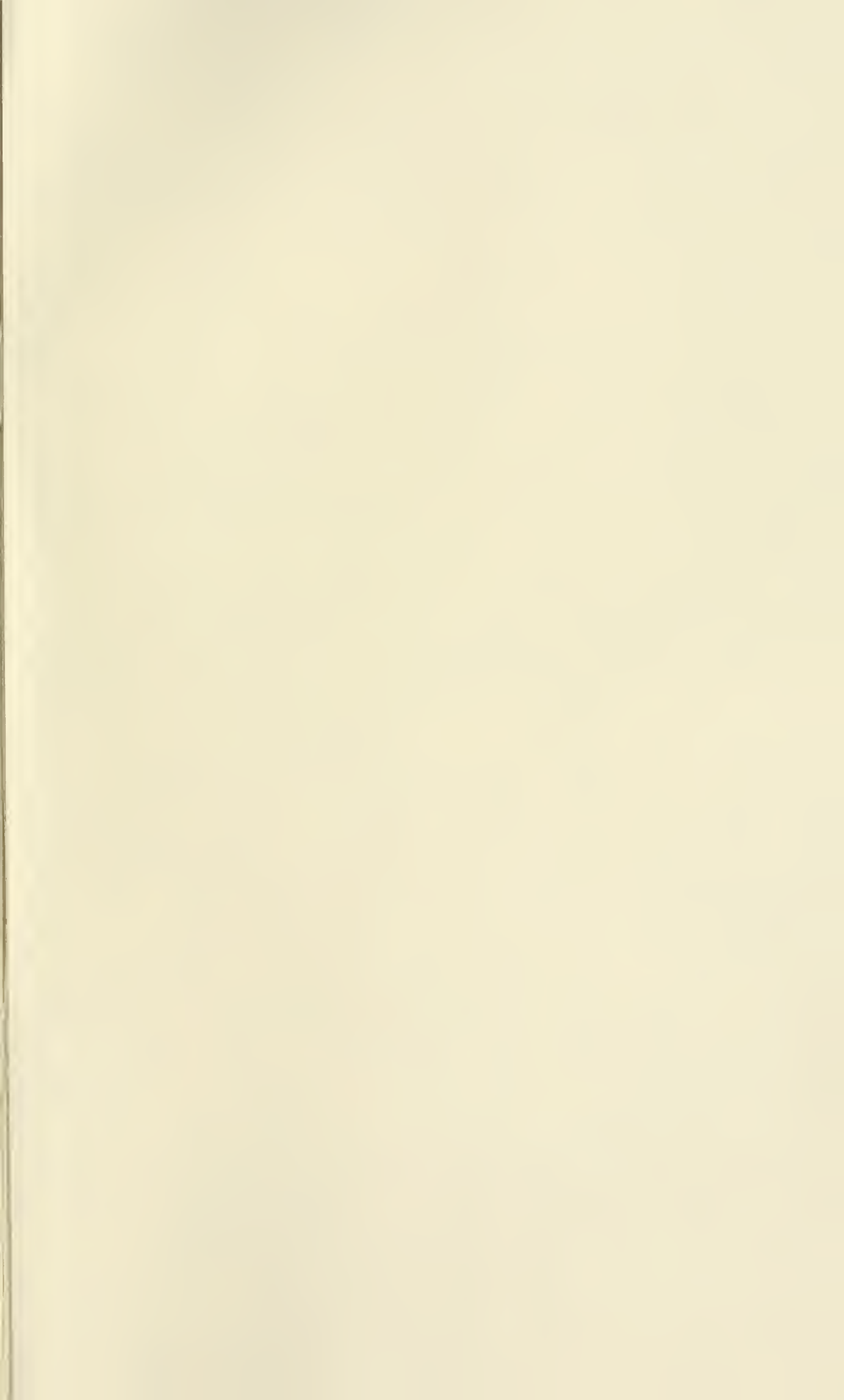
Attest:

Voting for 5
Against 0
Abstain 0
Absent 2

Clare Swan
Ms Clare Swan, Tribal Chairperson

Eli Darien
Eli Darien, Tribal Secretary

September 6, 1994
September 6, 1994



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